

(Re)Articulating Civil Rights Rhetoric:
A Critical Intersectional Approach to the No on 8 Campaign in California

by

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ABSTRACT

California's Proposition 8 revoked the right to marriage for that state's gay and lesbian population. Proposition 8 was a devastating defeat for gay marriage movements across the nation. The primary rhetorical strategy of the No on 8 campaign was a reliance on a Civil Rights analogy that constructed the gay and lesbian movement for marriage as a civil right akin to those fought for by African Americans in the 1950s and 1960s. Analogizing the gay and lesbian struggle for gay marriage with the racial struggles of the Civil Rights Movement exposed a complicated relationship between communities of color and gay and lesbian communities. This project reads critical rhetoric and intersectionality together to craft a critical intersectional rhetoric to better understand the potentialities and pitfalls of analogizing the gay rights with Civil Rights. I analyze television ads, communiqués of No on 8 leadership, as well as state level and national court decisions related to gay marriage to argue alternative frameworks that move away from analogizing and move towards coalition building.

DEDICATION

To Ben, with all my love.

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Chapter 1

INTRODUCTION AND LITERATURE REVIEW

We are in the midst of a major social change. Societies seldom make such changes smoothly. For some the process is frustratingly slow. For others it is jarringly fast.

Justice Carol A. Corrigan, *In re Marriages*

The November 2008 edition of *The Advocate* asks the question, “Is gay the new black?” Lamenting the passage of Proposition 8 in the state of California, a measure that revoked the right of marriage to gay and lesbian couples, the article simultaneously valorizes African Americans who opposed the proposition while articulating a frustration with celebrating the election of the first African-American president against the backdrop of anti-gay prejudice (Gross, 2008). This profound ambivalence was reflected in the blogosphere, some news media, and much of the public discussion of the breakdown of the No on 8 campaign. The news of statistical majorities of both black and Latino voters supporting Proposition 8 represented to many LGBT individuals a betrayal of a sort of symbolic, unstated coalition between African Americans and gays in their progressive support of Barack Obama.

Reactions to the success of Proposition 8 ranged from sheer anger to patronizing insults that likened the LGBT movement to the civil rights movement with the enthymematic question: “How could you?” This question became explicit through blogs and television appearances that shamed the black voters who supported Proposition 8. Dan Savage, who in the immediate aftermath of the passage of Proposition 8 operated as a spokesperson for the LGBT activists on

that campaign, appeared on *CNN* with both D. L. Hughley and Anderson Cooper. While on screen with D. L. Hughley, Savage was careful to concede that while the African American civil rights movement is historically different from the LGBT civil rights movement, there is a central similarity: hate. He argued that if you are fired from a job because you are gay *or* because you are black, you are still fired. His equation assumes all hate manifests identically; the disparate histories of racial minorities prove the materiality of his claim wrong. Savage followed this up with an appearance with Anderson Cooper where he argued that the 1963 *Loving v. Virginia* Supreme Court decision that overturned bans on anti-miscegenation laws was “identical” to the question begged by the passage of Proposition 8. This was not the first that the public heard of the Civil Rights analogy; in fact, this rhetoric can be found throughout much of the “No on 8” television spots during the campaign featuring pictures of “white only” drinking fountains, interracial marriages, even Klan regalia.

For many, the possibilities to discuss with sophistication and depth the divisions, both real and constructed, between African-American and GLBT communities was welcomed. This possibility, though, was quashed when many in the GLBT movement resisted any concessions. Savage, after his appearance on *CNN*, posted to his blog:

I’m done pretending that the handful of racist gay white men out there—and they’re out there, and I think they’re scum—are a bigger problem for African Americans, gay and straight, than the huge numbers of

homophobic African Americans are for gay Americans, whatever their color.

Savage's comments uniquely foreclose productive public discussions concerning racism, homophobia, and those who experience the intersection of these ideologies. His decision to construct African-American communities as *more* homophobic than gay and lesbian communities are racist was largely in response to reports of verbal aggression towards African-Americans at protests immediately following the 2008 vote (Cannick 2008). Cannick reported narratives from African-American activists enduring racial slurs and other verbal accosting while attempting to support the marriage movement; including being called "nigger" and "the niggers better not come to West Hollywood if they know what is best for them," "if your people want to call me a faggot, I will call you a nigger," (Cannick, 2008). She also relays this extended narrative

Three older men accosted my friend and shouted, "Black people did this, I hope you people are happy!" A young lesbian couple with mohawks and Obama buttons joined the shouting and said there were "very disappointed with black people" and "how could we" after the Obama victory. This was stupid for them to single us out because we were carrying those blue NO ON PROP 8 signs! I pointed that out and the one of the older men said it didn't matter because "most black people hated gays" and he was "wrong" to think we had compassion. That was the most insulting thing I had ever heard. I guess he never thought we were gay.

These stunningly racist accounts saddled those speaking for the gay community just after the passage of Proposition 8. While not representative of gay and lesbian communities, these comments require rejoinder. Savage's move to compare oppression and to suggest that African-Americans are more problematic in their homophobia than gays and lesbians are in their racism underscores the original claim that some in the gay and lesbian community do not understand racial oppression or the intersectional experiences of gays and lesbians of color. Savage concedes some responsibility for racism, but the force of his rhetorical move is to lay the balance of responsibility for prejudice on a homogenized African-American community. Savage's statement is an exemplar of how the burden of discrimination in the use of civil rights rhetoric in some LGBT activism is shifted to other groups and away from gays and lesbians. In this way whiteness, in the form of displacing public discussions of race and deferring responsibility for racism, functions in Savage's statement to cleanse what he calls a handful of racist gay men, while vilifying an entire community of African Americans for voting for Proposition 8. Such a perspective immediately severs the potential for coalitional work across racial categories and sexuality, ultimately eliminating the possibility for intersectional thinking.

Wayne Benson, a liberal columnist, followed up this conversation on November 12th, 2009. Benson writes:

Still, there is something particularly galling and repugnant about people who have felt the sting of discrimination, turn around and step on another minority. What happened at the ballot box feels like a personal betrayal

and the hijacking of history.... For the black people who voted for Proposition 8, the civil rights movement was about emancipating black people - and no one else seems to matter. These solipsistic individuals and their prejudiced pastors appear to lack an ember of empathy and have turned freedom into a private fiefdom.

First, Benson's suggestion of a personal betrayal suggests a close personal relationship between communities of color and gay and lesbian communities. Such an expression of intimacy underscores the question of "how could you?" visited earlier in this work. Benson argues that the voting behavior of African-American hijack history. This language choice is complicated in two ways: First, it rejects a material understanding of history and power that has not perpetually worked in the interest of social justice. Second, it rejects a sophisticated understanding of history itself related to the Civil Rights movement. His articulations understand the gay and lesbian movement as the appropriate inheritors of a history that moves perpetually in the direction of social justice and, perhaps enthymematically, implies that African-Americans, by virtue of their 'historical' oppression, have an obligation to support such progress. His assumptions about history are consistent with his characterization of those who supported Proposition 8 as holding freedom in private fiefdom. Fiefdom, an economy of exchange during the Middle Ages and feudalism, required loyalty in exchange for goods (Cantor, 1993). Benson's erroneous understanding of history complicates this metaphor insofar as Benson assumes the ownership of freedom at the expense of the concerns articulated by African-Americans that there is no

loyalty; or put another way with no interest, concern, or time, invested in communities that might garner the personal relationship Benson imagines he should not be surprised by the results. The metaphor aptly suggests that gays and lesbians cannot access the narratives of the civil rights movement so long as they are un-invested in movements for racial equality or in critically interrogating the racial troubles in their communities.

Finally, invoking the metaphor of ‘hijacking’ further distances communities of color and gays and lesbians; such a metaphor, particularly in the United States post-September 11, 2001, imagines a racialized subject diverting innocent people from their destinations. Jasmyne A. Cannick (2008), in a mutual appearance with Bensen, articulated clearly that many African Americans are insulted by the equation of the black civil rights movement with the gay civil rights movement given their disparate histories of material oppression as well as evidenced racism in gay and lesbian communities. Her position suggests the true hijacking of history is in Benson’s statement. Cannick argued

Look, you cannot ask me to talk to black people about gay issues when there is not investment in those communities. White gay men do not work in black communities, Proposition 8 did not come to black neighborhoods and explain why we should vote. The gay civil rights movement always wants to equate itself to the civil rights movement but they really don’t understand that movement or the history of that movement.... The problem is the language and how it’s being framed to black people. Gay

people need to understand that you cannot ask black people to separate the church and religion from the civil rights movement.

The debate exemplified by Savage, Benson, and Cannick reflects what is at stake in many debates over gay marriage, namely, what rhetorical strategies are available to gay and lesbian movements that do not foreclose coalitional opportunities or oversimplify historical relationships of power and oppression. The argument I have sketched thus far illustrates a microcosm of a much larger debate in the state of California, as well as across the nation, related to the crafting and articulation of effective rhetorical strategies in the gay and lesbian movement for the purpose of securing the right to marriage.

After ten years of battling for gay marriage, and with an untold number to come, and with major victories that are often overshadowed by quick and overwhelming defeats, the interchanges between Savage, Benson, and Hannick are an expression of exhaustion in the process. They also, more importantly, highlight much of the divisions that made the ten-year process so excruciating. Their arguments rest at the intersection of a number of bodies of literature that I mobilize in an effort to better understand the rhetorical choices of gay marriage supporters in California's 'No on 8' campaign. I am specifically interested in how the tensions among race, class, sexual orientation, sex, and religion create material complications for the crafting of movement messages as well as coalition building. The debate includes questions of social movement rhetoric, queer theory, whiteness and race politics, and coalitional politics. Using the theoretical framework of critical rhetoric in conversation with intersectionality I will

articulate what is at risk in the mobilization of civil rights movement rhetoric in gay and lesbian activism, as well as provide possible alternative framings of gay and lesbian liberation demands.

While the subsequent literature review will delve into more specific and broad historical strains of gay and lesbian liberation movements as well as the Civil Rights Movement, for now it is important to note that the debate over Proposition 8 was 10 years in the making. In 1999, William Knight, a state senator in California, wrote and began the signature gathering process to put Proposition 22 on the California ballot (Goldberg-Hiller, 2002). Proposition 22's formal name was "California Defense of Marriage Act." Modeled after the national Defense of Marriage Act (DOMA) enacted in 1996, which defines marriage as between one man and one woman, Proposition 22 amended a section of the Family Code of California making it illegal to distribute marriage licenses to gay and lesbian couples. Supporters spent over \$8 million dollars in the campaign to pass Proposition 22, with political organizers and volunteers mobilized in most communities in the state, outside of San Francisco. Winning by 61% of voters approving Proposition 22, the gay and lesbian marriage movement in the state experienced a weighted defeat (Goldberg-Hiller, 2002).

The statute's constitutionality was decided in *In Re Marriages* on May 15, 2008, a full 8 years after its institutionalization. The Supreme Court of California found that the effect of Proposition 22 was discriminatory and that the state cannot treat citizens differently based on sexual orientation. Because Proposition 22 was not an amendment to the state's constitution, and therefore could not be

the final arbiter on the question of gay marriage, the decision in *In Re Marriage* mobilized the crafting and circulation of Proposition 8. Just two days after the court decision, Proposition 8 had gained enough signatures to be placed on the 2008 election ballot. Proposition 8 was, in part, a response to Mayor Gavin Newsom's command to the Office of the County Clerk to distribute marriage licenses to gay and lesbian couples, as well as the correct assumption that Proposition 22 would be easily struck down by the court. Proposition 8 differed from Proposition 22 in so far as it amended the state's constitution to define marriage as between one man and one woman. Because Proposition 8 would be an amendment to the constitution, the degree of scrutiny required to be overturned through litigation is much higher.

Controversy surrounding the vote on Proposition 22 was just as racially charged as that of Proposition 8. The creation of the Jordan/Rustin Coalition (JRC) illustrates the strain experienced during the Proposition 22 debates that are further borne out in the Proposition 8 campaign (www.jrc.org). The Jordan/Rustin campaign was created in 2000 just after Proposition 22 passed. The purpose of the organization is to gather African American activists in the struggle for gay marriage in California. Observing and experiencing the lack of organizing in African American communities and the clear organizational ignorance of political agendas of many African American gay activists in the state, the JRC set out to ensure the voices and votes of African Americans in the state were counted and heard in gay and lesbian liberation movements (www.jrc.org). In the campaign against Proposition 8, the JRC reports that they

were not consulted until August 2008 when now President Barack Obama officially secured the Democratic Party's nomination for the Presidency.

California's NAACP was the only specifically African American organization with whom the 'No on 8' campaign attempted to work. This attempt quickly backfired when it was discovered that the president of the California NAACP was paid \$200,000 to endorse the 'No on 8' campaign without consulting the advisory board—a procedural requirement for announcing support for an issue in the organization (Serwer, 2009). This discovery was troubling as it appeared that the 'No on 8' campaign was attempting to buy the support of the African American community in lieu of the hard work of community organizing in predominately black neighborhoods. This delegitimized, in the eyes of many, the integrity of not only the 'No on 8' campaign but also the NAACP as an organization concerned primarily with advancing the political priorities of many in the African American community.

The six-month battle over Proposition 8 was grueling, emotional, and at times very ugly through radio ads, television spots, and interviews. During this politically charged time in California, over 18,000 gay and lesbian couples were legally married for the first time in the state's history. On November 4, 2008, Proposition 8 passed with 52% support. Though the margin in this case was more narrow than that in Proposition 22, the effect is the same: a ban on gay marriage, and resultant litigation.

Several lawsuits filed in response to Proposition 8 failed to prove the proposition unconstitutional. One lawsuit though, *Perry v. Schwarzenegger*,

heard at the Ninth District Court in California, found Proposition 8 unconstitutional. On August 4st, 2010, Chief Judge Vaughn R. Walker of the Ninth Circuit in the state of California handed down the court's decision that the state had no compelling or protected interest in denying gays and lesbians the right to marry, directly overturning Proposition 8. Though California is not the first state to approve gay marriage, or to do so through litigation, it is only the second state to overturn a constitutional amendment that banned gay marriage. Chief Judge Walker's decision will certainly not be the last word on the constitutionality of Proposition 8, the voter initiative that changed the California constitution to define marriage as between one man and one woman. Litigation over Proposition 8 will likely reach the Supreme Court of the United States.

As the movement for gay marriage progresses into the future, understanding the rhetorical exigencies and consequences of various state and national elections is imperative. This study seeks such an understanding putting to use critical rhetoric and intersectionality. To conduct a productive critical intersectional analysis of the 'No on 8 Campaign' demands an extensive review of a diverse body of literatures that span disciplines and histories. I begin with a discussion of social movements and social movement rhetoric to provide a clear foundation for the organization and rhetorical strategies of such movements. I move from there to a review of historical movements for racial equality, focusing primarily on the Civil Rights Movement. Given the analogous discourse analyzed in this study, as well as coalitional possibilities, this history is essential. A conversation including queer theory and queer social movements follows. This

literature points us to a history of predominately white grassroots movements that have varying degrees of success and inclusiveness of people of color.

Understanding the history of both movements, the Civil Rights movement and queer rights movements, enables me to put these movements in conversation with each other, draw parallels, and articulate important differences. I finish the literature explaining the study of coalitional politics. Ultimately my goal is to suggest rhetorical strategies that might be more welcoming to coalition building across racialized and sexualized communities; a keen understanding of how coalitions are built, maintained, and dissolved is central to this purpose. The central theoretical framework of this project comprises the final section of this chapter wherein I set up the possibility of a critical intersectional rhetoric the theoretical expansion of which will comprise chapter two.

Social Movements

Social movements as a frame to begin this conversation is useful because the Proposition 8 campaign was one predicated on the convergence of a host of social movements: grassroots movements against gay marriage, gay and lesbian movements for gay marriage, echoes of the Civil Rights movement and other movements interested in racial equality in California. Understanding social movement rhetoric, more specifically, aids in discerning how the rhetorical productions of LGBT movements generate a reading of the civil rights movement that begins to question the real and constructed relationships in and among both movements across time. In this way, the rhetoric used by LGBT activists to (re)articulate civil rights rhetoric both recasts our historical understandings of the

civil rights movement and constructs contemporary LGBT movements as ideological partners with African-Americans in the historical progress for social justice and as contemporary equivalents with these same movements.

This frame will also encourage a nuanced understanding of how social movement strategies and tactics are inevitably replicated in contemporary movements while the material performance of those productions in context demands more critical interrogation rather than replication. In this way, form and content become relevant in interrogating social movement strategies. This frame will intersect throughout the dissertation with other theories of identity, race politics, and coalitional politics; my intention, in this regard, is to better understand these intersecting identities and literatures to provide alternative frameworks for the pursuit of coalitional partners in the struggle for LGBT equality.

Jensen (2001) marks the start of social movement scholarship in the field of communication in the late 1940s and into the 1950s. Scholars then attempted to understand and theorize the stages of social movements. They were interested in what caused movements to coalesce, their growth, and their eventual end. These approaches were found insufficient to study what the 1960s would bring to social movement scholars in their infancy.

With little development of a vocabulary to understand the rhetorical power of sit-ins or street marches, the study of social movements in the 1960s was hamstrung, and the ability of researchers to engage social movement rhetoric was meaningfully diminished (Jensen, 2001). Research at this time can be primarily

characterized as scholarship interrogating the rules of decorum and civility as standards that preserve injustice and silence dissent (Cox & Foust, 2009). While this initial step into social movement criticism seems antiquated as a foundational assumption of present day critical scholarship, this discussion in the 1960s was meaningful for the development and expansion of rhetorical scholarship in the study of social movements.

Building on the initial foray into social movement research, Simons (1970) engaged a functionalist approach to the study of social movements. He assumed that leaders crafted messages and strategies for the purpose of resolving the rhetorical exigencies their group faced. In this way, social movements were defined as “uninstitutionalized collectivities” who seek resolve with institutionalized traditions. Fundamentally, Simons sought to explain the demand for equality, how to study social movements, and in what ways those movements could be researched (Cox & Foust, 2009).

Both Jensen (2001) and Cox and Foust (2009) highlight the emergence of Kenneth Burke’s logology in the 1970s. This emergence changed our understandings of how to research social movements. Burke’s theory of dramatism added contours to the study of social movements that replaced the functionalist approach introduced by Simons. In Burkean terms, social movements participate in the craft of drama and as such should be investigated as a rhetorical *form*. A scholar should study the progress and rhetorical productions of social movements. Griffin (1984) illustrates a Burkean translation to social

movement studies crafting a rhetorically beautiful prose that analyzes the personal journals of the John F. Kennedy assassin.

The 1980s brought introspective debates about the study of social movements. McGee (1980) argues for a move away from the study of social movement leaders, which is consistent with the diffusion of social movement leadership in the late 1980s. Zarefsky pleads for a move to studying historical movement texts in their specificity. A crisis of method/methodology was the source of much of this debate. Those in the field engaging rhetorical scholarship surrounding social movements did so with little agreement or standardization of form. In this way, fundamental questions concerning the nature of social movement began to arise in disciplinary conversations (Cox & Foust, 2009). McGee works to put *movement* into social movement studies. He argues that much of the way that early scholars were invested in social movements treated such movements as phenomena at the expense of understanding how movements change over time. McGee argued that scholars must move towards an understanding of movements as meanings, ideologies that change and *move* over time. McGee suggests charting how discursive change in movements occur. He writes

When people use new words—or obviously attribute new meaning to old words—we can assume that consciousness of their environment has ‘moved’ by measure of the difference in descriptors themselves or in meanings. We will not say that ‘movement’ exists or has occurred until we can demonstrate by a survey of public discourse that descriptors of the

environment have changed *in common usage* in such a way as to make ‘movement’ an arguably acceptable term useful in formulating the chain of facts we believe to have constituted a real change. The primary objective of a theorist working under such constraint is to *prove* rather than *presume* the existence of ‘movement(s)’. (p. 243)

McGee’s call here is to study more than just the rhetorical productions of social movements; instead, it is to understand social movements as communicative dissent themselves. Social movements, in this perspective, are not knowable entities, but are themselves constituted by their communication. McGee expects scholars to understand how ideological content changes across time, a key consideration in this study.

The New Social Movement (NSM) perspective emphasizes the desire for contemporary social movements to wrestle with the production of meaning. In this way, social movements are cultural movements that seek to constitute collective identities. NSM theorists want to move past class exploitation as *the* means by which social dissent was borne. Instead, social movements are motivated by shared exclusion from the hegemonic public; the goal of these movements, then, is to construct identities and meanings that reform or change the dominant creations of meaning. The role of the scholar in this reconfiguration of social movement theory changes as well. Cox and Foust argue that this shift opened the way for scholars to study “the *rhetoric* of social movements rather than a *social movement’s* rhetoric” (p. 611). One specific theory that highlights

this move and provides a basis in social movement theory for the study proposed here is counterpublics theory.

Brouwer argues that counterpublics are a source for the “reinvigorated study of social movements” (Cox & Foust, p. 613). The possibility of counterpublics emanates from the original theorizing of Habermas (1962) on public sphere theory. Public sphere theory appears to be a present day articulation of the marketplace of ideas. Habermas believed that the public sphere was a social site where meanings or ideas were articulated, debated, and eventually these ideas constituted what we understand as “the public.” In order for a public sphere to exist three general constraints must be in place: first, the disregard of status; second, the domain of common concern; finally, inclusivity. In these ways, Habermas constructed a public sphere that functioned, if only idealistically, to work for the inclusion of all voices and sentiments in an effort to construct a public that was just.

Critiques of Habermas generated the development of counter public sphere theory. Fraser (1990) argues that on all three of the criteria outlined by Habermas’ publics fail at inclusion and working for the interest of all individuals. Fraser argues that in the bourgeois public sphere constructed by Habermas, the bracketing of inequalities benefits dominant groups.¹ Jane Mansbridge (1996) explicates the problems with bracketing inequalities. She argues that such bracketing between men and women reinforces the male standard of performance

¹ Fraser was not the first critic to articulate a *counterpublic*. Negf and Klinge first named *counterpublic* (Brouwer, 2006).

so that women are expected to meet the standards of men. Fraser further argues that the public sphere as constructed by Habermas was not without exclusion. She argues that women were excluded in deference to male power. Fraser points out that such exclusion created the conditions where men saw themselves as a sort of universal class. Subsequently, it is not difficult to imagine how Fraser believed debates over the common concern would play out if the first two criteria of equality and inclusion were unmet. She indicates that the term “common concern” is exclusive in nature citing the feminist struggle to bring domestic violence from the private sphere to the public. Exclusions at these levels results in a public that is unresponsive to the claims of many, thus the creation of counterpublics. Counterpublics work within and outside the public as constituted by Habermas. Counterpublics are based on the interests of those that are marginalized from the ‘normative’ public—including the social movements that I seek to study here.

Counterpublic theory opens further the study of social movements (though I should mark here that counterpublics and social movements are not necessarily synonymous and the relationship between the two has not been significantly interrogated; see Brouwer, 2006). Scholars of counterpublics look inward to social movements to understand how they organize, their maintenance, divisions, etc. These scholars are also interested in when counterpublics go more widely public. Fraser (1990) terms this the “publicist orientation”—the desire to share discourse publically. These two foundations provide scholars with the means to discuss the constitution of counterpublics as well as how counterpublics

articulate, publically, their marginalization. This dissertation project seeks to take advantage of the space provided by public sphere theory to study the totality of counterpublics—to understand the mutating constructions of social movements as they move in and out of rhetorical trajectories and levels of “public-ness.”

Answering the calls of McGee (1980) and the opportunity provided by counterpublic sphere theory, this project works to understand both the rhetorical productions of the gay marriage movement in California as well as the consequences of public articulations of civil rights analogies. Counterpublic sphere theory will also help in later articulations of internal agenda setting in gay and lesbian movement for gay marriage.

The study of queer social movements in particular has the added complication, as do the studies of many political identity movements since the turn to post-modernism, of both challenging and shoring up dominant structures that contribute to their marginalization. This is not only a question of political movement strategies, but also one of post-modern desires to disengage identity politics altogether. Gamson (1995) argues that the difficulty of countering hegemonic and normative structures that function as tools of exclusion is that they are often the same institutions and mores to which gays and lesbians seek access. Specifically, the prominence of gay marriage on the national agenda of many gay and lesbian liberation organizations is the heart of much debate and internal divisions (Boswell, 1995; Collins, 1998; Warner, 1999). The maintenance and prioritization of gay marriage over other concerns faced by members of the gay and lesbian community, and those who identify as queer in general, finds its roots

in another philosophical difference surrounding the question of identity politics in general.

While the historical and philosophical battle over identity politics cannot be reviewed here in its entirety, the foundational claims are relevant. The substantive division here is between assimilation and separation, a tension not unfamiliar in the study of social movements (Epstein, 1987). In fact, the turn to post-modernism and the negotiation of realpolitik nearly necessitates consideration of these contentious strategies. In the context of opposition to gay marriage, this debate bears itself out in two primary ways. First, anti-assimilationist strategies reject the institution of marriage as heteronormative, exclusive, and ontologically irreparable and as such unworthy of our activism. Second, other social policies that do not depend on cultural acceptance of homosexuality are paramount including a myriad of discrimination protections including employment, housing, hate crime law enforcement, and poverty reduction. This list is not exhaustive but demonstrates opposition to marriage as a central agenda item for gay and lesbian activists. While this question will be given more attention later in this project, its preview here is an important first marker in understanding how this movement experiences important divisions.

Religion, Sexuality, and Civil Rights

The long and painful history of slavery and other forms of racial oppression dominate American history. While reviewing that history in its entirety here cannot be readily achieved, there are a number of important

historical and cultural events that contextualize the tensions that spiked after Proposition 8 passed in California.

During slavery many African-Americans became literate through the study of the Christian Bible. While it was not necessarily in the interest of slave owners to encourage the education of slaves, understanding such skills would equip them with resources towards the end of liberation, instruction in Christian ethics was a soul saving necessity. As such, many slaves were exposed to and integrated Christian ethics into a pastiche of traditional religious/spiritual customs and Christian ethics (Pinn, 2003). This is the foundation and introduction of conservative faith beliefs in African American culture. Much like Catholic colonization of Mexico, the lasting effects of this religious education does not escape generations quickly (Lockhart & Schwartz, 1983).

Both religious ideology and socio-economic forces guided traditionally conservative understandings of sexuality in early United State history. D'Emilio (1992) argues that the economic conditions of plantation farming and pre-industrialized life demanded a reliance on large family networks that virtually mandated reproduction in the interest of survival. The near impossibility of accumulating independent wealth outside of this network made the socio-economic conditions inhospitable to sexual freedoms. These economic interests in addition to conservative Christian ethics of sexual purity create the social, cultural, and economic foundations of homophobic ideologies that underscore much opposition to gay and lesbian liberation.

As African Americans escaped or were freed from slavery, many historians report the quick establishment of black churches. After slavery, a geographically and spiritually divisive and abusive system, the function of early black churches was to provide stable spaces of culture (Pinn, 2002). The centrality of early black churches, Christian and otherwise, was a collective space of freedom and cultural negotiation. While attendance in black churches has fallen substantially since their construction in the late 1800s, conservative sexual ethics continue to ground many opinions in African American cultures (Griffin, 2006). My intention, of course, is not an attempt to ignore the overwhelming number of whites who also subscribe to conservative Christian ethics that share similar anti-gay ideologies, but is instead to establish a functional understanding of religious orientations to homosexuality. These foundations are central to much mainstream activism of the Civil Rights Movement.

Before the rise of the national Civil Rights Movement, in cities like Chicago, San Francisco, Atlanta, and New York, communities of African Americans celebrated sexual freedom, embraced sexual difference, and enjoyed the diversity that those cities embodied. Historians' accounts of gay Harlem are compelling. Schwarz (2003) explains that Harlem became a central location for African Americans leaving the south during the early 1900s. Due to segregation policies, Harlem, a previously all white city, was converted to living center for African Americans. It is also because of segregation that many African American for a variety of backgrounds, with an untold number of skills were centrally located (Schwarz, p. 8). Claude McKay labeled Harlem at the time "the Negro

capital of the world” to express activist qualities and potentialities of racial solidarity found in Harlem.

During this time, religiously funded anti-vice movements in the white areas of New York advocated the closing of sexual entertainment. That entertainment found its way into Harlem where white anti-vice campaigners showed little interest until several decades later. In this environment, sexual freedoms could flourish allowing public expressions of homosexuality. Chauncey (1994) argues that these locations were functionally a “gay world”—a space in which there was relatively less racial exploitation and more egalitarian relationships including interracial and homosexual sexual interactions and relationships.

Harlem as a social location of sexual freedom was not without exploitation. Whites who could no longer enjoy sexual entertainment in their own neighborhoods flooded Harlem, and in many cases consumed Harlem as an “exotic” location (Chauncey, 1994). Schwarz reports that whites, not African Americans, owned over 95% of Harlem’s entertainment businesses. Instead, African Americans served as the entertainment. Even in Harlem, most clubs had “white guest only seating.” Capitalist gentrification took hold very quickly with old working class saloons renovated to cater to a wealthier class of white consumers.

These relationships were reflected in the most ‘public’ displays of gender play and sexual entertainment—the famous drag balls of Harlem (Schwarz, 2003). Roberts (2007) argues that the Harlem drag balls were both challenging to and

complicit with the prevailing racist sentiment of the time. While the drag balls provided a public platform in which racial taboos could be broken including the public expression of interracial homosexual desire and panoply of other sexual and gender nonconformity, they also were locations in which class divisions were heightened. Roberts argues that for many white ‘investors’ the drag balls were spaces in which they could consume images of the “exotic negro spectacle” (p. 2). The racial power differential was stark in the designation of awards. While African-Americans constituted the overwhelming majority of performers, they were, in the early days of the balls, awarded only a very small minority of the prizes. Wealthy white investors controlled the money and the awards (Roberts, 2007).

Chauncey (1994) argues that class and racial tensions ignite a public debate concerning the degree to which locations like Harlem harm the chances of middle-class African Americans to integrate fully into their own communities. Some wealthy and middle-class African Americans and their white counterparts remained steadfast in their criticism of ‘the city’, both Harlem and as a cultural location, as a space of moral devaluation, slipping religious ethic, and modern excesses taken to the extreme. Historically and culturally situated during the success of suffrage and an increasing role of women in the workplace, the open culture of Harlem posed an additional threat to hetero-patriarchy, thus attracting the criticism of many prominent cultural critics and politicians. The end of gay Harlem arrives during the Great Depression and becomes subject to national Civil Rights Movement criticism of liberal sexual mores.

Russell (2008) illustrates the complicated history that African-American civil rights movements have with the question of sexuality. Russell articulates the relationship between the black working class and liberal sexual politics arguing that it was the mainstream national civil rights movement that attempted to police sexual mores. He marks the *Brown* decision as the turning point in policing sexual freedom as the trade off for mainstream white acceptance of civil rights.² Russell suggests that before *Brown*, both *Ebony* and *Jet* magazines (African American run and focused magazines) provided positive and lengthy coverage of drag balls that took place in primarily African American neighborhoods, like Harlem, and in which African Americans participated. Russell provides evidence of this sexual openness through a variety of cultural artifacts including police reports, blues music, speeches, and news articles.

The *Brown* decision, Russell (2008) argues, closes this sexual openness as the expense for civil rights protection. The decision was interpreted as a mechanism by which African Americans could be socialized as productive members of American society. The decision declared that America was missing an important opportunity in crafting disciplined subjects for achieving the American ideal:

² Russell does not begin his conversation about the civil rights movement at the *Brown* decision. He extracts a more broad history of the movement dating back to the late 1800s. I begin here with *Brown* as it is marked by Russell as a primary way in which African Americans were specifically disciplined by heteronormativity as a trade off for their civil rights. It appears to be the first instance where the extraction of queerness was mandated as a means for civil rights progress.

Today, education is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. (Russell, 15)

In the same year that this decision was handed down both *Ebony* and *Jet* stopped publishing about drag shows; newspapers across cities with high African American populations also stopped reporting about drag shows (Russell, 2008). More generally (and negatively), most publications geared toward an African American audience stopped printing anything related to homosexuality with the exception of negative editorializing. During the same years, more liberal city council leadership found themselves replaced in the struggle for civil rights by the emergence of national leadership headed by Martin Luther King, Jr. Media attacks on prominent city level clergymen who accepted homosexuality aided in this endeavor.

Martin Luther King, Jr., personally appeared to have few problems with homosexuality. Bayard Rustin, one of his closest advisors, was a gay man. Martin Luther King, Jr. also welcomed James Baldwin—a popular gay author—frequently as company. However, as the leader of a civil rights movement that sought integration, the rhetorical exigency demanded a project of moral self-discipline and self-improvement (Russell, 2008). King commanded audiences to behave in the most upstanding way possible to hedge against stereotypes of African Americans as sexually promiscuous and predatory (Wilson, 2005). While

King never spoke publically on the explicit question of homosexuality, he did respond to issues of sexuality broadly. He once counseled a 15 year-old boy to seek “psychiatric help” for his “problem” and pray for “a solution” (p. 18).

Bayard Rustin served as one of King’s closest advisors until Congressman Adam Clayton of Harlem approached King and threatened to spread a false story of King and Rustin as gay lovers. Russell (2008) quotes King stating, “my biggest fear was being associated with homosexuality” (p. 47). His fear was born out of the threat homosexuality posed to meeting white standards of morality and appropriate sexual expression. While the political calculations summed to an exclusion of sexuality, politics alone cannot account for the severing of sexuality in the civil rights movement. A critical understanding of the religious foundations of the civil rights movement allows additional insight into the tension between civil rights, political expectations, and religious disapproval. Given that King was a reverend in a particularly homophobic period in American history, we might not be surprised by King’s counseling of the young teenager.

King also filled his speeches with religious content that provide cues for understanding broader cultural mores that in many ways reject homosexuality. Miller (2007) underscores the many ways in which the speeches of Martin Luther King Jr. were characterized by biblical hermeneutics. The biblical references to Amos, David, Job, the boys in the fiery furnace, Daniel in the lion’s den, Solomon, etc., were not simply ways in which King could keep the audience interested or function as ways to communicate a religious message. They were also these recitations of stories from the Bible constitute the framing of much of

the civil rights movement rhetoric. The stories strategically chosen are those that share messages of challenge, endurance, and ultimately triumph or safety through difficulty. In the end, those cited by King from the Bible are characters who find happiness through their struggle or find peace with God. In either case their dedication, the focus on their goals, and their faith in deliverance leads to their success. This rhetorical strategy as a frame for a long civil rights movement is both strategic and effective in sustaining commitment to the cause. These are also stories, and foundational ideologies that complicate the articulation of civil rights analogies for gay and lesbian activists insofar as they are religious and underscore the *length* of a civil rights struggle. The fight for gay marriage in its current form can be traced back, broadly, to 1991 in Hawaii.

The review of this work is not to accuse the civil rights movement of homophobia but instead to highlight the historical relationship between the civil rights movement and sexuality as shaped by political exigencies and religious traditions. Russell (2003) argues that the price for meeting white standards of moral behavior in the hopes of integration was the severing of ties with open forms of sexuality for African Americans. The policing of sexuality meant that those involved directly in the civil rights movement as well as those who sought integration into white culture must meet the minimum standards of white political, cultural, and personal mores. Severing stereotypes of oversexualization and reclaiming the nuclear family was one way that the leadership of the movement could ensure the proper integration of equality for African Americans.

The question then becomes how does this rhetoric get deployed in contemporary conversations about race? Specifically, I am interested in the ways in which sexual freedom is estranged from the progressive civil rights movement despite a rich history of sexual liberation ideologies in many cities before the uptake of a national civil rights movement. The residue of this parting of movements continues to be meaningful.

Hall (2005) argues that when civil rights are discussed in contemporary political discussions the story generally begins with *Brown v. Board* and ends with desegregation. A serious historical injustice is done in these bookended and closed discussions of civil rights activism: mainly that the movement becomes contemporarily impotent and historically essentialized. In this way, the movement is narrowed to a sole focus on desegregation at the expense of an analysis of much of the social activism that occurred on the issues of poverty, school lunch programs, health care, and improving education. The sole focus articulated on desegregation and full legal equality is then blamed for the continued poverty of many African Americans. The diversity of work done by the civil rights movement is, according to Hall, strategically looked over to diffuse the real power of the civil rights movement which was the mobilization, dedication, and effectiveness of specific local projects to improve the lives of many in poor and working class neighborhoods.

Hall (2005) concludes that dominant narratives shape the way we come to understand the movement as specifically about racial equality, as opposed to an expansive movement. Hall cautions that we have lost something fundamental to

the civil rights movement when we ignore the multiplicity of social issues on the behalf of which many in the civil rights movement advocated. The confluence of race and class and gender/sex were part of the civil rights movement. This confluence was a powerful motivator in the coalescing of so many individuals under the banner of civil rights. Hall warns that losing this history is a way in which the true political power of the civil rights movement can be and has been diminished.

Civil rights movement rhetoric is in many cases based heavily on a particular theological understanding of the world. The rhetorical constructions of the movement as they relate to the topic of this study provide an interesting conundrum: religious condemnations of homosexuality abound, but the rhetoric of a movement that was predicated on an admittedly conservative theological foundation is the source of rhetorical strategies in a contemporary LGBT movement. A primary conflict that LGBT activists must resolve in the strategic utilization of civil rights rhetoric is conservative religious ideology.

Ultimately, the rhetorical construction and historical recollection of the civil rights movement is complicated and affects both our memory of the movement and how active and efficient anti-racist politics can subsequently be. For the purposes of my research the literature understanding both the historical severing of sexuality from civil rights as well as the theological foundation of the civil rights movement as a potential complication with a wholesale transplant of civil rights rhetoric is imperative. Further, in order to truly understand the consequences and potentials of a (re)articulation of civil rights rhetoric in LGBT

activism it is important to first understand the rhetorical productions of the civil rights movement; particularly, how those in the movement sought to situate themselves as moral actors in democratic negotiations. Understanding these rhetorical constructions of the civil rights movements gives some entrance to an understanding of how both movements are constructing/constructed in contemporary articulations of civil rights.

LGBT and Civil Rights Movement Intersections

George Chauncey (2004) accounts for the history of LGBTQ activism from Stonewall to contemporary debates over gay marriage.³ His historical account of such activism highlights many important foundational associations or correlations between the African American civil rights movement and early queer rights movements. From the start, African Americans in the civil rights movement created a clear framework for LGBTQ activists to forward their equality agenda in both rhetorical form as well as historical precedence. In the late 1960s into the early 1970s, “gay is good,” borrowed from “black is beautiful,” strategically functioned to create community for a social movement as well as provided a positive frame for cultural demands (p. 13). Modeled from the NAACP Legal Defense and Education Fund, Lambda Legal Defense and

³ Joan Nestle, the creator of the Lesbian Herstory Archives, cautions that seeing Stonewall as the beginning of the gay rights movement is reductive and rejects the storied history of gay activism (Deitcher, 1995). I begin my research at Stonewall because it is a historical moment in which grassroots mobilization meets resistance, a moment of gay and lesbian power most akin to 20th century civil rights struggles.

Education Fund was created in the interest of protecting those prosecuted because of their gay identity.

Early strategies of LGBTQ movements also create easy and seemingly natural associations between the African American civil rights movement and gay rights movements. The clearest relationship here occurs in legislation to extend protections to GLBT individuals in the 1970s. Cities like East Lansing (the first to pass gay rights ordinances), Austin, New York, and San Francisco passed gay rights ordinances by way of simply adding sexual orientation to already passed civil rights legislation. By the 1990s, many of these protections were overturned through anti-gay referenda. Specifically speaking to the relationship between African American civil rights movement legislation and LGBT civil rights struggles, Chauncey argues that Republicans in Oregon played on white anger toward affirmative action legislation, while simultaneously threatening that any advancements made by LGBT individuals would come at the expense of African American rights secured through civil rights legislation (pp. 46-47). In this sense, then, early divisions were rhetorically and materially created between African American civil rights progress and LGBT civil rights progress through a constructed trade off between the rights based claims of both social movements. This initial racialization of the LGBTQ movement was made possible through a depiction of gay men specifically as white, wealthy, and politically powerful. In this way, the *threat* of special interests and rights replaced a picture of a social movement interested broadly in LGBT rights.

Perhaps the most important relationship of the civil rights to LGBT civil rights movements is the establishment of the 14th Amendment as the juridical precedent for equal rights protections through the NAACP Legal Defense. If not for *Brown v. Board of Education* (1954), LGBT activists would not have likely won cases such as *Evan v. Romer* (1996), a case in Colorado that would have made the passage of *any* rights protections for LGBT individuals unconstitutional. This is also true for the achievements in *Lawrence v. Texas*, the Supreme Court decision that decriminalized sodomy, which explicitly strikes down the *Bowers* case that found no constitutional protection from Georgia state sodomy laws. More recently, the Iowa Supreme Court's decision clarifying that nothing in the Iowa constitution prohibited the marriage of same sex partners relied heavily on civil rights case law. All three cases explicitly cite the *Brown v. Board* case and the 14th Amendment equal protection clause.

The most recent court case heard on the question of gay marriage was in California, *Perry v. Schwarzenegger* (2010). There were two questions before the court: Does, and, if so, to what degree, Proposition 8 violate the equal protection clause; and does, and, if so, to what degree Proposition 8 violate due process? This two-pronged question was also the question before the Supreme Court in a host of civil rights cases including the landmark *Loving v. Virginia* (1967) decision where the court found that a Virginia statute banning interracial marriage (the Racial Integrity Act of 1924) violated both due process and the equal protection clause. In that case the Court argued

Marriage is one of the "basic civil rights of man," fundamental to our very existence and survival. To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discrimination. Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State.

Just over 40 years later, the same logic and close to the same rhetoric was used to strike down the constitutionality of Proposition 8. Judge Walker wrote in the decisions in *Perry v. Schwarzenegger* (2010)

Moral disapproval alone is an improper basis on which to deny rights to gay men and lesbians. The evidence shows conclusively that Proposition 8 enacts, without reason, a private moral view that same-sex couples are inferior to opposite-sex couples. Proposition 8 fails to advance any rational basis in singling out gay men and lesbians for denial of a marriage license. Indeed, the evidence shows Proposition 8 does nothing more than enshrine in the California Constitution the notion that opposite-sex couples are superior to same-sex couples. Because California has no interest in discriminating against gay men and lesbians, and because Proposition 8 prevents California from fulfilling its constitutional obligation to provide

marriages on an equal basis, the court concludes that Proposition 8 is unconstitutional.

In the course of constructing the decision, Judge Walker, as well as the lawyers who presented evidence and arguments before the court, drew on cases like *Loving v. Virginia* (1967), *Perez v. Sharp* (1948), *Brown v. Board of Education* (1954), and *Pace v. Alabama* (1883). The citation of these cases, the core of civil rights litigation, makes the legal comparison between African Americans and gay and lesbian activists more recognizable. The substance of this case law makes clear arguments about the legality of prohibiting marriage based on the arbitrary, socially constructed identity categories.

One significant case was missing from the Proposition 8 decision: *Plessy v. Ferguson* (1896). This was likely because Judge Walker was not asked to decide the degree to which civil unions fulfill the promises of due process and equal protection. Other courts have determined that civil unions do not fulfill the equal protection requirements of their state constitutions; those decisions put to work the case law of *Plessy v. Ferguson* (1896). Some protestors after the passage of Proposition 8 marked a common Civil Rights Movement sentiment—separate is not equal. Such a statement misunderstands the responsibility of the court in deciding the constitutionality of gay marriage bans. While the protestors are mistaken about the legal questions under Walker’s jurisdiction, their marking of the four word slogan signals their understanding that much more than legal rights are at stake in the debate over gay marriage. I will revisit this misunderstanding of the court in later chapters of this project.

The work of citationality in juridical power is clear in terms of a legalistic framework. No decision made in the courts of justice that address the question of equality will avoid citing the landmark decisions of the 14th Amendment—that demands a citation of at least *Brown v. Board of Education* (1954). In this way, no new social movement that engages litigation as a means for equality will avoid the citation of foundational civil rights cases both in the presentation of evidence or in the decisions crafted by the court. However, in terms of what we know about the power involved in citationality through the work of Judith Butler (1996), the juridical citation of the civil rights movement success as well as legislation to extend protections to LGBT individuals creates a message of equivalencies. This was the case with gay rights ordinances in the 1970s that emerge as one of the first times that, legally, African Americans and gay and lesbians were treated the same before the law based on ostensibly analogous systems of power and discrimination.

Judith Butler (1996) argues that we understand cultural performances, mores, and behavior as citational. To explain gender as performance, Butler initiates the metaphor of juridical citationality where the Supreme Court or district court justices make rulings based in concordance with precedent; they look to past decisions in the context of the present suit and quote, or cite, the previous decision as the grounds for their current decision. So, in the case of gender as performance, a whole history of sex/gender performance is inherent in each performance of sex/gender ultimately infusing the present performance with historical legitimacy. This adding of history does two things: first, it adds

legitimacy to each previous performance and each performance to come that complies with that precedent; second, each performance solidifies the idea or notion that sex/gender differences are innate characteristics.

For this project, I am interested in the citational practice of both court decisions and the passage of gay rights ordinances by way of adding sexual orientation to civil rights legislation as it emerges as a cultural performance of citationality. The particular circumstances of the Proposition 8 vote and subsequent cultural strife demands that critics strive to understand the terms and conditions of citational practices. Under what circumstances can historical precedence work for the progression of contemporary movements? If and to what degree must the movements be similar for the citation to make sense? I will unlikely be able to answer these questions in their entirety for this project; however, long term consideration of these questions is relevant. The citational history explicated above in and among court cases that are forwarded on the grounds of the 14th Amendment may contribute to an assumption of natural coalitional work between minorities based on a shared position in relation to the law. While this history may be politically expedient and efficient, the presumed naturalness of this coalition erases differences between the movements and their activists. While this difference is not a fatal, it does require careful consideration and crafting of rhetorical messages that attend to their differences while articulating similarities.

While there has been a great deal of overlap in the Civil Rights struggle and gay and lesbian liberation struggles, it is important to note and critically

interrogate instances in which gay and lesbian liberation movements have made activism inhospitable to African American gay and lesbians as well as heterosexual allies. This literature review has thus far attempted to understand social movements very broadly, then specifically the cultural and social location of some ideologies that emerge in African American communities that underscore and perpetuate conservative sexual mores. Further, I have illustrated the historical emergence of equivalencies between the Civil Rights movement and gay marriage movements. My ultimate interest in coalitional politics mandates an examination of literature that explores more strains of ideologies and practices that intervene to make coalitional possibilities more complicated. In this way, a review of whiteness studies will provide some insight into the problematics of racism within gay and lesbian liberation movements.

Whiteness

The review of whiteness here functions as a way to understand the lack of work done by many in LGBT movements to understand the intersection of race and sexuality, giving further insight into walls between the two movements. Neither movement is particularly hailed as the savior of the interests of the other. The civil rights movement both literally and figuratively asked LGBT individuals to wait their turn in the creation of equality. Both the “closeting” of Bayard Rustin and the counseling words of Martin Luther King, Jr. to the young gay man are evidence of this claim. Simultaneously, LGBT movements have notoriously privileged the interests of its white members often at the expense of focusing on

issues that would have a more ecumenical effect for the totality of LGBT interests.

Joe Feagin (1997) details some frustration on the part of African Americans when LGBT activists put civil rights rhetoric to work for gay rights. Feagin argues that some African Americans resented the use of civil rights rhetoric in the 1970s, because of the specifically *historical* emphasis of such citations, rendering the movement past tense. During the 1970s, both legislative and cultural battles for LGBT equality raged in the United States. At that time, LGBT activists argued that their social position was virtually identical to those in the Civil Rights Movement. They articulated the historic precedent provided by the Civil Rights Movement both in case law and in cultural subjugation (p. 23). African American activists at the time criticized such rhetoric as racist, arguing that equivalencies between the social location of African Americans and LGBT individuals ignore a history of racial violence, oppression, and slavery (Feagin, p. 24).

More recently, this rhetoric is exemplified in many of the gay marriage debates discussed previously. This rhetoric functions in several ways; most importantly, however, this rhetoric erases the important historical and contemporary differences between both movements. The strategy of erasing difference has, across history, worked to help privileged groups. In this case, the erasure of difference between the two movements benefits the interests of a predominately white movement at the expense of the Civil Rights movement rhetorically, and current activist work in race politics materially. The strategy of

difference erasure is also at the heart of scholarly work conducted in whiteness studies.

Whiteness studies emerged from political and intellectual critiques forwarded by anti-racists attempting to expand the explication of race relations from the position of subordination (Frankenberg, p. 2). While this “new” body of scholarly was not undertaken in mainstream research until the late 1990s, scholars of color have written about whiteness and white privilege for over a century (Dubois 1920; Baldwin 1984; hooks 1990, 1992). Peggy McIntosh points out the irony of the historical study of whiteness: “it took white people to put whiteness on the map for white people” (Haynes, p. 10B). Whiteness is “new” only in as much as white people are now engaging the criticism.

The study of whiteness was introduced to the field of communication studies in 1995 with Nakayama and Krizek’s investigation into the strategic rhetoric of whiteness. This research has continued across methodologies in the study of communication (De Luca 1999; Dyer 1998; Frankenberg 1997; Hill 1997; Martin et al., 1996; Nakayama & Martin 1999). Studies of whiteness in communication generally share three characteristics: “an impulse to mark and thus come to understand, whiteness; a commitment to anti-racist or anti-white supremacist politics; and a desire to build emancipatory notions of whiteness” (Moon & Flores, p. 99).

Nakayama and Krizek argue that it is through abstract understandings of what it means to be “white” or “American” that Whites maintain regulatory power and presumed universality (p. 303). The elusiveness of “white” leaves it an

“uncharted territory that has remained invisible” while influencing “the identity of those both within and without its domain” (p. 291). The white focus group participants in this study refused labels of racial identification, arguing that no racial label was entirely accurate. In this way “white” as a race or ethnic category is rejected, but as a marker of privilege is maintained as *the* standard of American cultural mores. In the case that “white” is an unmarked category of privilege the maintenance of its power remains in avoiding a marker altogether. “Difference”, then, always rests with racial others leaving white an un-interrogated category, and the standard by which others are judged.

Like Nakayama and Krizek (1995), Crenshaw (1997) finds the power of whiteness’ silence to exponentially compound its own power. Crenshaw conducts an ideological criticism of congressional debate over the reauthorization of the United Daughters of the Confederacy (UDC) insignia that contains the confederate flag. Specifically, Crenshaw is interested in the hidden nature of whiteness detected in the congressional debate over the insignia between Jesse Helms and Carol Moseley-Braun.

To rhetorically move the debate from addressing the issue of racism, Helms’ strategy was to emphasize a variety of other characteristics of the women who participate in the UDC. He cites the women as “gentle elderly ladies who volunteer at veterans hospitals” (Crenshaw, p. 285). This strategy characterizes the women as non-confrontational, generous women. Further, it genders them in a specific manner, as if “ladies” are somehow impervious to the vicious ideologies of racism. This makes the women harmless, feminine, patriotic, and

decidedly incapable of being the racists that the confederate flag symbolizes as a historically situated symbol. In additional speeches, Helms characterizes Moseley-Braun as a bully attacking the innocent, gentle elderly women of the UDC. His rhetoric positions her as the instigator and/or fabricator of racist ideology where there was none previously; this rhetorical move removes the women of the UDC from the subject of discussion.

Crenshaw (1997) argues that Helms' strategy is the foundation of othering: This strategy places people of color *with* race, and whites as without race. This rhetorical move places the burden of all race work, conversations, and interventions on the shoulders of others, and in this case holds Moseley-Braun responsible for inciting 'the race conversation.' Those who mark race or identity become the scapegoat for a purified and seamless neo-liberal culture bent on color-blindness.

Crenshaw (1997) concludes that the ideology of white privilege maintains its invisibility through rhetorical silence. A "natural condition" is constructed through the silence of whiteness and the *silencing* of difference. Crenshaw furthers that the multiple intersections of identity categories such as race, gender, and class work to maintain the silence of whiteness. Language is coded to maintain conversations about "others," never about whites or whiteness. Rhetorical critics, Crenshaw concludes, must do the important work of making whiteness recognizable, to speak it and negate the silence surrounding white dominance.

Howard Winant (1997) argues that whiteness works to incorporate dissent into the normative framework of culture as an attempt to demobilize progressive movements. He explains that the concept of “equality” allows whites to envelope the successes of the civil rights movement into the system as normative. The marker “equality” according to Winant, from the civil rights movement to contemporary demands represents a desire to meet the basic standards of white America, rather than systematic change of the culture. This makes the power structures of the U.S. flexible and resilient to even radical change, minimizing the perceptions of that change to the public (p. 41). It is in this context, Winant argues, that whites experience a division in their racial identities. At once, whites are beneficiaries of both white supremacy and racism, and they are “subject to the moral and political challenges posed to that inheritance by the partial but real successes of the black movement” (Winant, p. 41).

The implications of this race dualism are particularly challenging to contemporary race discussions. Winant (1997) argues that racial dualism for whites has resulted in three main political consequences: “the erosion of white identity,” the loss of class politics as a foundation for political discussions, as well as a conservative constructions of “racial reactionary” tactics (p. 42). The most problematic of these for Winant is the creation of an assumed natural division between black and white issues by the conservative right serving as reactionary politics. Reactionary politics is not new; however, the manner in which the right is able to conduct its reactionary campaign is ultimately what is important here.

Winant illustrates that race politics has been conducted almost exclusively in code, saying nothing explicit about race but instead implying through stereotypical adjectives and images. Further, this campaign tolerates a certain level of non-white participation “as long as this is pursued on a ‘color blind’ basis and adheres to the rest of the nationalist formula” (p. 44). Winant argues that people of color are allowed to participate in discussions of race and still play by the rules of politics *if* they maintain a white way of speaking about race issues. In this sense, one must speak of racial colorblindness, the denial of severe racial differences; race is something to overcome in this context.

Since Winant’s writing in 1997, cultural shifts seem to have enhanced the conditions under which claims of white racism are quickly discarded in many political discussions. The deferral of racial conversations since President Barack Obama won the 2008 presidential election exaggerates the racial dualism to which Winant refers. In this way, African American claims of contemporary racism are labeled as inappropriate or are called lies. Dr. Laura Schlessinger on August 17, 2010, articulated this malicious disinterest when she blamed a caller for being overly sensitive to a neighbor’s racist comments and questions. She further suggested that the caller ought have anticipated such situations upon deciding to “marry outside of [her] race” (Tucker, 2010). Schlessinger rehearses a neo-liberal argument that the problem with racism is not with white people as individuals or with racist structures but with overly sensitive people of color who seek redress.

In the context of LGBT politics whiteness is articulated in two ways: First, academically, the marker of queer is extricated from whiteness; second, in

material political activism, the LGBT community is critiqued for resting in the comforts of white privilege. Academically, few whiteness scholars have attempted to explain the relationship between whiteness and homosexuality. Nakayama and Moon (2005) explore the constructions of whiteness in relation to murder of J.R. Warren, a gay black author in Appalachia. They argue that the construction of whiteness worked to exclude the question of sexuality in terms of the hate crime statutes used to prosecute Warren's killers. The rhetoric surrounding the event, however, underscored and exploited the sexuality of the criminals and the victims. While the murder of Warren was committed by two of his white friends, prosecuting the two for hate crimes extracted a careful understanding of both identities (race and sexuality) as existing outside of whiteness. In this case, the Warren's murderer's claimed that their crime was because he was gay, not because he was black. This strategic choice was made precisely because hate crime legislation does not protect LGBT individuals, but does protect victims based on their race (p. 93).

Warren, an openly gay man, had sexual relationships with his two killers. Moon and Nakayama (2005) point out that the white families of both men denied the sexual relationships with Warren through racialized language. As such, whites of Appalachia were able to exclude homosexuality from standards of whiteness as well as implicitly deny the racial hate crime that occurred. Because LGBT individuals were not protected by hate crime laws, the two men who murdered Warren were charged with homicide and served lesser prison sentences for their crime (p. 101). The cultural climate surrounding race and sexuality was

permanently divided. Moon and Nakayama observe that neither African American nor LGBT individuals access the privilege of whiteness in this case, and that whiteness worked to separate the communities from working together against racist heteronormativity.

With academic work on the relationship between whiteness and sexuality sparse, a turn to the way that whiteness is enacted in LGBT movements seems warranted. The second way that whiteness is discussed in relation to the LGBT movement is through critiques of the movement as racially privileged. More specifically, this criticism articulates that leaders in the LGBT movements are overwhelmingly white, middle-upper class, gay men who control much of the agenda and who neglect to understand racial dimensions of sexuality. The substance of this discussion will be found in the analysis chapter in this dissertation project where I perform an intersectional criticism of the campaign rhetoric of the Proposition 8 debate in California. Here, I lay the ground work for theoretically and materially understanding racialized and sexualized categories of identification that may backstop or work against the possibility of coalition building. Whiteness can, as illustrated, function in deceptively polarizing ways.

Coalitional politics

Gayatri Spivak (1988) provides a foundational text and theorization for coalitional politics. Her analysis of strategic essentialism works such that those who share a particular identity while acknowledging the varying identities among them may choose for a frame or moment in activism to essentialize their identities for the strategic accomplishment of a goal or articulation of an identity. Spivak

subsequently argues that many misunderstand strategic essentialism by stripping the strategy from the term, using it as warrants for their own essentializing.

Theoretically, this options allows an individual to acknowledge complicated and nuanced identities constitute them as a subject but also to for a moment identify most significantly with one identity category for the purposes of social progress.

Iris Marion Young (1994), building on Spivak's theory, borrowed Jean Paul Sarte's definition of "series" to make her argument for coalition building. Young argues "series" function to form a commonality created not by shared characteristics, which might constitute a coherent group identity, but by shared proximity within the "structured relations" of a particular social condition. She uses the metaphor of passengers waiting at a bus stop that never comes. The find themselves similarly situated in relationship to the bus, but must not identify with each other beyond this regard. They may, in this case, coalesce around a particular solution—perhaps a shared taxicab—for a limited purpose. Young, writing specifically about feminist coalitions, argues that our pasts limit the ways in which we live in the present and the ways we can conceptualize of solutions to our shared problems. She indicates may be easy in the case of our example of the bus to suggest several alternatives to a shared cab. For example, all of those waiting could walk individually to their destination, they could quarrel over what cab company to call or the number of cabs needed, etc. Young concedes that a multitude of complications can arise. She cautions that the effectiveness of coalitions in this respect hinges on their anticipation of differences and the preempting of solutions.

Seriality, in Young's (1994) terms, constitutes a coalitional politics that is both respectful and skeptical of rigid identity categories as the basis for political mobilization. Various groups could unite for limited interchanges and purposes across racial and sexual difference to work against past and present conditions of separation and oppression that construct difference. Maya Goldenberg (2007) builds here on Young's theorizing of seriality. Goldenberg argues that Young's understanding of seriality focuses too much on a single exemplar of seriality. Instead Goldenberg argues that we should understand frames of coalitional work that cross multiple series or political alliances. She wants to emphasize that nothing about the past or present precludes the possibility of coalitional work to respond to inequity. Such work does not require an erasure of difference. These authors are not advocating that individual activists engage in any sort of essentialism or sacrifice their goals to enter coalitions but that they engage in a short term episodic coalition that meets the goals of all involved.

While theoretically this work on coalitional politics makes sense and appears to respect the critiques of intersectionality, the material manifestation of these arguments may be problematic. While Young (1994) attempts to attend to the potential for divisiveness in deciding on a "vehicle" for change, little depth is given to this conversation. The material differences and realities of social movements must be explicitly addressed for any theory of coalitions to be workable. Gloria Anzaldúa (1999) argues that the alliances or coalitions are formed through a shared consciousness that pushes each toward collective action. While the emphasis is on collective action and shared understanding, Anzaldúa is

clear to emphasize that difference is an imperative function of coalitional alliances. She concedes that this work is not easy and there are sometimes intense philosophical differences between would-be coalitional partners. Like Reagon (1983) and Lugones and Spelman (1983), Anzaldúa recognizes a need for some level of shared history. Shared history is not, in this case, identical history. For example, it is not the case that each group have experienced the same oppression or the same intensity of oppression but instead that each recognizes their own contextual experiences with oppression and work to understand how that affects the way in which they speak from such a position, while also striving to understand the position from which others speak. In this way dialogue becomes a foundational component to the functioning of a coalitional partnership (Lugones & Spelman, 1983). Genuine dialogue seeks to understand the communities involved in the coalition as well as the degree to which individuals feel a sense of belonging to a particular identity, as well as others. It is on the question of dialogue that coalitions are easily worn away. Where genuine and in depth dialogue cannot be achieved coalitions cannot move forward productively.

The review here is necessarily blunted both because my primary interest is in critical rhetoric and intersectionality, and much of the work on coalitional politics will appear throughout the analysis chapter proceeding this discussion. Reviewing this body of literature will work towards a more complete understanding of how a political issue such as marriage might polarize queer communities and communities of color. This literature will also help in the development and testing of alternative rhetorical trajectories that may be more

productive for the gay and lesbian movement in garnering political victories and coalitional partners.

Intersectionality

Brah and Phoenix (2004) illustrate clearly and poignantly the intersectional conflicts in the history of feminist social activism. Beginning with the suffrage movement and moving through contemporary feminist fights to “unveil” the women of Afghanistan, Western feminism continues to miss (or ignore) much of the cultural concerns that are wrapped up in liberation movements for women. The theory of intersectionality allows feminist scholars to take the marginalizing history of feminist thought and movements and expose the power that moves in and out of the lives of women and men to adjust the trajectory of a homogenizing but not homologous movement. In this way intersectionality has the potential to not only change the way that feminist activists and scholars look at power and privilege but also to re-imagine a future of feminist activism that can meaningfully attend to cultural differences.

Intersectionality has developed as a theory meant to describe and explain privilege and power as it works in the lived experiences of those whose identity intersects with a multiplicity of identity categories that create the conditions of their unique oppression. In the germinal article on intersectionality, Crenshaw (1989) illustrates the lived experience of black women in relation to legal statutes that regulate employment discrimination cases. In this context, the women filing suit against their employers were forced to choose between their sex and their race; either choice was a losing one in this context as the employer could prove

that they were hiring women (white) and African Americans (men). This illustrates both lived experiences of those with multiple underserved identity categories, as well as how intersectionality may illustrate how those in power forcibly marginalize others to maintain their positions.

Patricia Hill Collins (1998, 2005) addresses at length the cultural forces that converged to constitute black sexuality as both racist and gendered, forcing black women and men into particularized sexual stereotypes and expressions. Collins argues that intersectionality was born out of a desire to understand more clearly systems of power at work as they cross the lives of individuals. In this respect, intersectionality as a theoretical concept has largely been interested in the social construction of individual identities across systems of power (Collins, 1998, pp. 264-265). Individual experience is not sufficient, however, to understand how group-based experiences are influential in the creation of group movement or advocacy. Collins argues that intersectionality adds the needed theoretical complication to group creation—groups do not simply coalesce because they share a race or a sex. Instead, Collins argues that individuals create group identification around shared interactions with “social institutions, organizational structures, patterns of social interaction and a constellation of experiences” (Collins, p. 205).

Intersectionality highlights how African American women and other social groups are positioned within and between confluences of unjust power structures. Intersectionality provides a theoretical understanding of coalitional possibilities. The focus of intersectionality for Collins is a balance of theoretical interrogation

and practical negotiation of oppression. In this way recognizing overlapping power structures may operate as an opportunity for coalitions to form around that single similarity, without a resultant expectation of full commitments to enduring coalitions. Collins argues that a too narrow focus on specific group identities enables state manipulation and oppression of that group; intersectionality provides an especially useful framework to understand coalitional politics (p. 206).

Method

Methodologically, this study will proceed by putting to use critical rhetoric while also using intersectionality as an analytical tool for reading more nuanced understandings of the matrices of power at work in the rhetorical productions surrounding Proposition 8. I avoid using the term method in reference to critical rhetoric both for the caution that McKerrow (1989) suggests and because it is my intention to read intersectionality onto critical rhetoric to theorize a critical intersectional rhetoric that attends to power in the critique of freedom and domination as well as takes up power in relation to multiplicity of identity. Initially, McKerrow (1994) argues that critical rhetoricians ought treat critical rhetoric not as a method in the traditional sense of the word, but as an embodied practice. Critical rhetoric, then, is what we perform thorough our orientations to the world when we analyze texts.

Critical rhetoric, as forwarded by McKerrow (1989) argues for a morally engaged scholarship and ideological critique of discourse. This demands that the critic become social actor. In the inversion of the disciplinary term ‘rhetorical criticism’, critical rhetoric centralizes McGee’s (1990) perspective that “rhetors

make discourse from scraps and pieces of evidence. Critical rhetoric does not *begin* with a finished text in need of interpretation; rather, texts are understood to be larger than the apparently finished discourse that presents itself as transparent” (McGee, 1990 p. 278). McKerrow agreed with Klumpp and Hollihan (1989) in their conclusion that the trajectory of contemporary rhetorical criticism mandates rhetorical critics take a moral/ethical stance in relation to their research. This concern with judgment demands a commitment to praxis, “a form of action that is neither arbitrary nor prescribed by universal principles. Rather it is guided by an intelligent understanding of contingency” (Charland, 1991).

This moralistic stance follows, as McKerrow (1991) suggests, a commitment to unmasking power arrangements that blur our understandings of culture. The available means of unmasking power is the close examination of the discourse that converges to influence cultural beliefs, attitudes, and actions. We must engage “discursive fragments of context,” and understand the unfinished, “invisible texts” before us. Critics must use the “skills of a rhetorician” to “[*invent*] texts suitable for criticism” (McGee, 1991). These judgments and interventions require socio-political stances that necessarily effect the subjects and consumers of rhetoric. Farrell (1991) follows this calculation arguing, “modern rhetorical *practice* is thus the performance and enactment of our sense of the appropriate with responsive, interested others” (194).

The call of critical rhetoric proceeds through a dialectical interrogation of power that is interested not only in ways that power oppresses or dominates, but also in how power can benefit subjects or give freedom. An analysis of critical

rhetoric can proceed through a critique of freedom and a critique of domination. The critique of domination is true to ideological critique insofar as it is concerned with the ways that power can constrain and oppress. McKerrow (1989) writes, “there is a compelling sense in which power is negative or repressive in delimiting the potential of the human subject” (p. 92). The critic in the evaluation of domination is interested in emancipation or freedom; ultimately revealing the discourses of power that converge to constrain subjects.

In the vein of Michel Foucault, McKerrow suggests a second responsibility for the critic involving a critique of freedom. McKerrow, like Foucault, argues that power is not always or exclusively oppressive. Power is also “productive” (p. 98). The critique of freedom is careful to consider the material results of political action in the interests of the underserved. In this way, the critique of freedom is the perpetual critique of power as underserved populations advocate for social power. Critics are interested in how new social power leads to both increased freedom and, perhaps, new or different forms of domination.

Finally, McKerrow (1989) outlines the “principles of praxis” (p. 100). According to McKerrow, “The acceptance of a critical rhetoric is premised on the reversal of the phrase ‘public address’—we need to reconceptualize the endeavor to focus attention on that symbolism which addresses publics” (p. 101). The praxis McKerrow is concerned with is the demand for critics to be present in their criticism. It does not provide critics an objective set of research protocols or reading strategies; instead, it equips scholars with an orientation to the world that

is concerned with evaluation and intervention in political investments. The specific principles, there are eight, will be addressed at length in the following chapter where I put intersectionality and critical rhetoric into conversation with one another.

McGee (1999) argues that rhetorical artifacts alone cannot provide the critic holistic understandings of a particular rhetorical situation. Given the postmodern condition of contemporary rhetoric, McGee argues for a level of fragmentation. The researcher, then, must investigate, collect, and analyze a variety of rhetorical texts to fashion an analysis from “scraps and pieces of evidence” (p. 76). This must be especially true in the rhetorical productions of contemporary social movements. It seems obvious to state that there is not a single homogenous, all-inclusive, universally supported LGBT social movement but instead a variety of movement activities that occur across the globe in the interest of social justice for LGBT people; some of these movement are at odds with each other. For example, many in gay and lesbian communities would see the dismantlement of marriage as a cultural institution instead of gaining marriage rights for the LGBT community. Because of the diversity of interests, movements, and cultural/political agendas, there can be no single text sufficient to account for cultural sentiment on a particular issue.

Analyzing a collection of texts may not fit neatly into a single methodological frame—a relevant concern here. Jasinski (2001) remarks, in a special issue of the *Western Journal of Communication*, on the status of rhetorical theory and method in the field of communication as it is diverging significantly

from previous generations' insistence on methodologically driven criticism. He notes that historically, method in rhetorical theory functioned as a sort of scientific method of understanding texts to evaluate their efficacy (p. 251). In this way, the content of the work was evaluated to understand its larger functionality in the successful or unsuccessful execution of public address. This understanding of method quickly became dogmatic, mandating method to be a sort of checklist of what rhetors are meant to do in speaking engagements. This methodological arrangement also served an important function in creating systematic studies that rhetoric as a discipline could stake its claim as a legitimate field of study.

As rhetorical scholars move further away from the theoretically-driven methodologies or the check-list methods there is more elasticity in their analysis. Jasinski (2001) labels this freedom as the ability to “tack” back and forth between the text being analyzed and the concept being used. In this sense the critic opens both the text and the concept up to a various (re)interpretations, allowing the concepts and texts to “remain essentially works in progress” (p. 256). Conceptually driven criticism, then, relies on the intricate readings of texts and meticulous awareness of the conceptual tools.

Geertz (1973), an anthropologist who is interested in how symbolic forms or language help critics understand culture, argued that conceptually driven criticism operates differently than method based criticism because it does not necessarily seek to advance the study of cultures in a linear fashion each study building on the advancements of the previous in search of an ultimate overarching understanding of cultural symbolic exchange. Instead, Geertz argues that concept

driven criticism is interested in deepening our understandings of how concepts function in relation to a variety of texts and cultures. Using conceptually driven criticism a scholar may take a rhetorical concept and use it to understand a rhetorical situation.

Brouwer (2004) exemplifies this approach in his discussion of decorum as a useful concept to discuss the rhetorical exigency related to the death of Senator Stewart McKinney. In this article, Brouwer uses decorum to understand the ways in which Senators eulogized McKinney, a United States Senator, who died of AIDS-related complications. Brouwer was interested in how the words of other senators avoided the subject of his sexuality by way of demonstrating rigorous “tacking” between the concept of decorum and the particular demands of eulogizing McKinney. Brouwer expands our understanding of the conflicting nature of decorum and propriety as they intersect with the rhetorical complexities of the McKinney death.

In the following chapter, I will work more specifically to understand intersectionality and critical rhetoric at once through the help of conceptual driven criticism as well as the “tacking” demonstrated by Brouwer (2004). The methodological thrust of this project, then, will be the articulation of a critical intersectional rhetoric and its later application to the No on 8 campaign. A review of the texts here is appropriate.

Texts

Following the call of critical rhetoric, I will engage a critical intersectional analysis of some “discursive fragments” in the campaign for and against

California's Proposition 8, including campaign materials (both print and television), news coverage of post vote reactions, protest images, public statements from the 'No on 8' campaign, and most recently, the decision in *Perry v. Schwarzenegger*. I have selected this material based on frequency of circulation as reported by the NAACP, JRC, and the 'No on 8' campaign.

The "No on 8" executive staff was the combination of executive members of a number of state equality organizations including: Geoff Kors of Equality California, Kate Kendall of the National Center for Lesbian Rights, Lorri Jean of Los Angeles Gay and Lesbian Center, and Delores Jacobs of the San Diego Gay and Lesbian Center (www.eqca.org). In response to the backlash of GLBT activists and their allies in the immediate aftermath of the passage of Proposition 8, these executive members of the campaign published a press release encouraging understanding and coalition building in the face of a devastating defeat (www.eqca.org).

A primary means of communication to the public for the 'No on 8' campaign was media advertisements in the form of commercials. Those analyzed here were produced by the 'No on 8' campaign, commissioned by them, or were otherwise frequently aired on prime time television during the campaign. The television advertisements that I analyze are: "Discrimination", the "No vs. Yes" series, "Republicans against 8", "Proposition 8 in plain English", "Parents", "A Civil Right?" "Construction worker", "Three generations of women", "No on Prop 8" and "The Thorons" (all available via Youtube).

While the television spots alone are sufficient material for a study of the ‘No on 8’ campaign, my interest here is to understand the broader context of the campaign. It is necessary then to analyze the communiqués of the campaign, as well as media coverage surrounding the debate over Proposition 8. The introduction to this study displays a heated exchange about the campaign messages, racialized assumptions, and the consequences for coalitional politics. That exchange and the resultant media coverage will also be analyzed, focusing specifically on the headline article in *The Advocate*, as well as the media appearances and blogs of Cannick, Sullivan, and Benson.

Finally, I will also analyze the text of the decision in *Perry v. Schwarzenegger* (2010) that ruled Proposition 8 unconstitutional, and in *In re Marriage Cases* (2008), the court ruling that made Proposition 22 unconstitutional allowing gay marriage in California. My choice to analyze case law for this project will enhance the critical intersectional analysis that follows based on how civil rights rhetoric is a part of our national cultural narrative of rights negotiation. The questions I seek to answer in this respect are broad questions of citational access to historic case law beyond the courtroom. Put more simply, it seems inevitable that any court decision on gay marriage will necessarily cite historical precedence in relation to marriage, primarily interracial marriage, as well as segregation and discrimination. I seek to understand how this citation of case law translates to public messages concerning equivalences between the Civil Rights movement and movements seeking the right to gay marriage.

Conclusion

In the end, this project brings together several lines of academic discussions that are relevant to sustaining an intersectional analysis of the ‘No on 8’ campaign. I seek to both move forward in the communication field in the use of critical rhetoric, and expand our understanding of this perspective putting it into conversation with intersectionality. In terms of social movement theory, this research not only answers the call of previous researchers to investigate more thoroughly the rhetorical productions of social movements, but also understands the movements as rhetorical productions themselves constituted in and through rhetorical exigency. My study stands to offer an intricate understanding of two movements across time; their overlapping and borrowed strategies and the consequences of such borrowing. In relation to Civil Rights movement literature as well as LGBT rights movement literature, this study offers a way to understand current articulations of the civil rights movement, how this articulation affects both memories and current manifestations of anti-racist activism, and what opportunities can be gained from coalitional work with LGBT activists. For the LGBT movement, the movement in which I am most personally invested, this project will generate critical understandings of the current rhetorical productions of the movement, the strong use of whiteness as a standard for racial participation in the movement, as well as a new framework for activist engagement that avoids the pitfalls of religious debates, while emphasizing equality. As a conceptually driven project I do not seek to simply take up where this literature leaves off; instead, I am interested in working through the relationships between these

literatures to understand their intersections as they can be mobilized for the work of social movements.

These commitments are evidenced as I move through the chapters of the dissertation project. Chapter two will take up the theoretical possibility of a critical intersectional rhetoric tacking back and forth between critical rhetoric and intersectionality to discover spaces where both theories might be more powerful with the aid of the other. Chapter three engages an thorough analysis of the texts I have explained above. I put the use the theoretical position of a critical intersectional rhetoric to interrogate the rhetorical trajectories and choices of the Proposition 8 campaign and how these choices effect the potential for coalition building. Finally, in Chapter four I conclude this project with an analysis and offering of alternative frameworks from which those interested in gay marriage might articulate their positions. I end with a discussion of potential future research in this vein.

Chapter 2

CRITICAL INTERSECTIONAL RHETORIC

Critical research makes explicit the dense web connecting seemingly unrelated forces in society.

V. Mosco, 1983

Establishing the case for a critical intersectional rhetoric must begin with a thorough interrogation of both lines of analysis. My goals here are to provide detailed assessments of critical rhetoric and intersectionality, including common criticisms of both, in order to ultimately put them into conversation with one another. This conversation will reveal the degree to which each can help the other generate a more historically rigorous and holistic critical analysis.

Critical Rhetoric

Raymie McKerrow (1989) develops a theory of critical rhetoric whose intention is to engage the question of dispersed power in any given rhetorical text or situation. McKerrow proposes a dialectical critique of power that finds its basis on two forces of power: domination and freedom. In these critiques, the rhetorical critic is tasked with the obligation (in a moral sense) to “unmask or demystify the discourse of power” (p. 91).

The critique of domination seeks to understand how discourses of power “create and sustain social practices which control” (92). The critic attempts to understand the ideologies that are wrapped up in the rhetorical creations or constructions of those in power. Critics here seek to reveal the rules of rhetorical expression: who can speak, how much they can speak, on what topics they can

speaking, and when. These “institutionalized rules” are used by dominant classes to regulate the rhetorical practices and actions of the oppressed. McKerrow terms these rules and regulations to speak “dialectic control” (p. 95). The dialectic of control is discovered through the rhetorical exchanges in and among cultural participants. McKerrow, relying on Foucauldian understandings of power, concedes that the critique of domination can never be exhaustive as hegemonic power is not centrally located, but rather dispersed.

McKerrow (1989) suggests at least three strategies for a necessarily complex critique of domination. First, the critic may analyze and classify the types of ideologies that are at work in the collected fragments of rhetorical productions. In this way, the critic might find themes, ideographs, or a locus of struggle that reveals the ways in which power is convening to enforce oppression. Second, McKerrow cautions critics not to understand the world in simplistic zero-sum notions of power. It would be inaccurate to assume that in order for one group/collective/subject to gain power, another group/collective/subject must lose power—instead power moves in a matrix (Foucault, 1979). In a matrix of power, all power is connected, and all relations of power materialize in generally unequal relationships. Given the connectedness of a matrix, power struggles must necessarily affect much of the landscape. In this way, the fluid movement of power is not a discrete or direct relationship any shift in one relation of power will affect all other relations of power. We cannot argue, then, that one struggle for power is secluded; all movements of power are relevant to relationships of power throughout the matrix. The final strategy for a critique of domination, is knowing

that understanding domination is only a fraction of the complex functions of power. A focus only on domination neglects the possibility for oppressed groups to exercise “varying degrees of power *over* others” (p. 96). McKerrow sustains that attention to domination is necessary but insufficient to fuel a nuanced critique of the flow of power. The critic must also be interested in the possibility of freedom—even in the face of illustrated oppression.

The critique of freedom is the investigation of the constraints of power in our daily lives. In the words of Foucault, “the work of profound transformation can only be done in an atmosphere which is free and always agitated by permanent criticism” (McKerrow, p. 96). In this way, the rhetorical critic is committed to a telos (an end or goal) that is never ending. McKerrow (1991) argues that the nature of power and the perpetual creation of new social relations characterized through power mandate that the critic never ceases to engage a critical eye towards those relations. This critique hopes to create an opening in social relations over-determined by power for a new understanding or potentialities for “thought and action” that are not dependent on injustice or inequality (McKerrow, 1989, p. 96). Understanding power as a three part relationship is essential. McKerrow suggests that discourses of power emerge from a triangulation of forces: power, right, and truth. Each co-constructs the others to make power and dominance appear natural, or comprehensive. Ultimately, McKerrow cautions the critical rhetorician against understanding any relationship free from the force of power and discipline.

McKerrow also discusses *praxis* or his interpretation of the responsibility for critical practice of critical rhetorical scholars. Praxis for McKerrow reverses traditional understandings of rhetorical criticism of public address; critical rhetoricians are interested in “the symbolism that addresses publics” (p. 101). McKerrow establishes the eight principles of critical rhetorical practice: critique as practice, discourse of power is material, rhetoric is doxatic knowledge, naming is of nominalist rhetoric, influence is not causality, absence is as important as presence in symbolic action, fragmentation contains potential for polysemic interpretations, and criticism is performance.

The first principle contends that critical rhetoric is not a method but a practice. This is not altogether different from the eighth principle: criticism is performance. McKerrow (1989) argues that understanding and evaluation are two parts of the same process. Both the nature of power, and the fragments a critic will gather to analyze put demand the critic to understand forces that may not be explicit or visible. For the critic to understand power that may be unspoken or unseen, evaluation of messages must be simultaneously present. McKerrow illustrates that in the bringing together of fragmented rhetorics a struggle for understanding must occur, the result of that struggle is a new orientation to the world, or a greater understanding of how power functions. In the bringing together of rhetorical fragments, as well, McKerrow argues that critical rhetoric is performative. The critic becomes “inventor” and as a result and advocate for a particular understanding of those fragments. The critic must take a position, though not without a critical eye, and advocate their interpretation.

The second principle of praxis is concerned with the material realities of the lives of those we study. A critical rhetoric calls on the critic to interrogate how a collectivity of people use or follow a discourse. The critic is reminded that the rhetoric analyzed is not just language or ideologies floating about culture but has material consequences and largely direct the lives of those that follow.

The third principle McKerrow (1989) is concerned with is the question of *doxa* or how ideologies are concealed in discourse. Instead of attempting to evaluate the truth claims of ideologies, critics should be interested in how ideologies or discourses come to have power. Understanding how a discourse comes to power enables a more complete analysis of the matrix of power and how each component therein functions. Related, principle four reminds the critic to ground their criticism in a contingent historical understanding of the discourse. No rhetoric has a fixed or determined meaning outside of its context; in this way, the critic is cautioned to attempt understanding and evaluation within the discursive context.

In making evaluations, principle five acknowledges an often-found fallacy in evaluations of power: causality. McKerrow (1989), with the help of Condit (1987), advises researchers to remember that there is little to no causal relationships in a Foucauldian understanding of power. When power *negotiations* occur, power is shifted in one direction or another; suggesting there is an *influence* of power. Consistent, too, with Foucauldian notions of power/knowledge, McKerrow argues that what we are searching for in the pursuit of understanding is often absent. This is to say that we engage a critical rhetoric;

often what is most important is what is absent, or not explicit. This is the sixth principle.

Following a nuanced understand of the *influence* of power, as well as reading past the explicit material to find what is missing a critical rhetorician must remember and put into practice polysemic interpretations of rhetoric, or the seventh principle of praxis. Putting to use polysemic, or varied, interpretations of rhetoric helps the critic avoid determinism, static notions of reality or truth outside of discourse, and linear conclusions of causality. It is also the cause that discourse is interpreted in a multitude of ways depending on the particular orientation of the subject, or collectivity. The same sign may take on a myriad of meanings depending on the historical context (principle four).

Between the two critiques and the principles of praxis, McKerrow (1989) has set out a tall order for critical rhetoricians, though the task is not impossible and not altogether different from what critical scholars have been committed to in other disciplines. Critical rhetoric seeks to integrate a nuanced understanding of power relationships into the study of rhetoric making the act of criticism itself destabilizing to status quo power structures. What McKerrow has tasked rhetorical scholars with is not without its detractors.

After this initial offering, a number of response (both critiques and supportive additions) articles hit the journals. The most often cited criticism of McKerrow is his neglect of materialist resistance (Charland, 1991; Cloud, 1994; Greene, 1998; Hariman, 1991; Murphy, 1995; Rufo, 2003); others were concerned with McKerrow's reading of Foucault (Biesecker, 1992; Greene, 1998;

Hariman, 1991; Kuypers, 1996; Ono and Sloop, 1992). The criticism of McKerrow's approach reveals that critical rhetoric is not complete or even workable to a certain extent as presented in 1989. Given the benefit of rejoinder and time, several scholars have forwarded convincing criticisms of McKerrow.

Initially, Greene (1998) invests the most intricate and detailed criticism of McKerrow's critical rhetoric. Greene argues that to achieve a materialist resistance scholars must investigate the "organizational and historical dynamics of governing apparatus" (21). Governing apparatuses, for Greene, police the population. He writes that governing apparatuses "exists as an ensemble of human technologies dedicated to improving the welfare of a population" (p. 30). Specifically, Greene argues that McKerrow's work falls short of truly revealing or unveiling the operation of power throughout discursive practices. Instead, in order to get to the revelation of domination critics must focus on how rhetorical practices *create the conditions* for governing apparatuses—in other words, how do rhetorical practices enable the production of group subjectivities that might be mobilized in the interest of perpetuating the need for regulation and goodwill on their behalf (Greene, p. 31). One might be interested here in understanding when groups are made public such that they may be symbolically 'protected', or regulated, by a governing power—Don't Ask, Don't Tell is an exemplar of this publicity. The military policy prohibits homosexuals from sharing their sexual preference, and also prevents military personnel or officials from asking one's sexual preference. This policy was established under the Clinton administration under the guise of protecting gays and lesbians serving in the military (Michael,

2008). The policy had the effect of silencing gays and lesbians from true expressions of their identity and dishonorable discharge if their sexuality was disclosed. Heterosexuals did not face the same consequences if their sexuality was disclosed voluntarily or involuntarily. The façade of the policy was that it protected the best interests of gay and lesbian service members.

Greene (1998) further argues that McKerrow misunderstands Foucault, a misunderstanding that corrupts the workability of a critical rhetoric. Greene instructs that to understand Foucault it is foundational to understand that knowledge and power work together, but are distinct. Foucault is careful to extract this notion in *The Archeology of Knowledge*. Greene argues that McKerrow cannot get around his “Foucauldian gambit” without reconfiguring his misapplication of Foucault’s arguments concerning power/knowledge. Greene forwards his solution as explicated above. He argues that Foucault is ultimately interested in the historical and organizational conditions that enable power/knowledge. In Greene’s alternative, the critic would come to a more clear, though not complete, understanding of rhetorical practices. Absent a reworking of the bipolar power reduction that McKerrow engages, Greene argues that critical rhetoric amounts to polysemic readings of power that can only produce representations of power without a revelation of the domination. In this context, then, Greene argues that critical rhetoricians cannot adopt materialist strategies but must rely on methodological stance—the antithesis of the goals of materialist scholarship.

The most broad claim leveraged against the politics of critical rhetoric is predicated on infinite regression. Some scholars fear that the embrace of postmodernism, or even just post-structuralism, will devolve to an anarchic state of politics where a political stake cannot be placed or remain stable even for a brief period of time (Charland, 1991; Hariman, 1991; Kuypers, 1996; Rufo, 2003). Charland (1991) cautions that a sustained telos, or permanent criticism, inevitably translates to a distancing of critical praxis. He reasons that if rhetoric is always contingent, and the critic is always engaged in criticism, there will rarely be a moment where the critic can take a political/material stand on the subject of criticism. In this way, there are not grounds for material political investments. Similarly, Hariman (1991) argues that McKerrow does not provide a sufficient explanation of how a critic might stake a political claim given critical rhetoric's trafficking in postmodernism. Hariman believes that scholars that traffic in the "posts" (post-modernisms) cannot fuel an affirmative activist politic. He argues instead that postmodernism mutates the ultimate goal of critical rhetoric from material engagement to a thoroughly academic endeavor. The idea of critical material intervention remains a sort of false consciousness that allows critics to believe they are oppositional; their absence in a material sense, however, allows power to remain unchanged.

Cloud (1994) echoes this criticism as she sustains a Marxist criticism of critical rhetoric. She argues that the material conditions that McKerrow seeks to address, the communities or subjects related to the collectivity of fragments gathered by the critic, are ignored in his consideration of praxis. Cloud suggests

that McKerrow's reliance on Foucault and a praxis that can be achieved through criticism alone relinquish a critic's responsibility to the material communities that they study. Ono and Sloop (1992) forward a critique of the McKerrow in a different vein. Ono and Sloop argue that McKerrow does not go *far enough* in his description of praxis. Telos, for McKerrow, is a perpetual criticism of power. Ono and Sloop argue that *telos* must be understood as a sustained critical praxis (p. 48). Ono and Sloop contend that *telos* represents the moment "when pen is put to paper purposively, when ideas become words and when will becomes action" (p. 48). In this way, they argue, an effective critical rhetorician must forward her/his own critical beliefs. Here, Cloud argues for an alternative perspective of *immanent realism* wherein truths are "perspectival" (p. 145). The preference of a critical scholar, in this case, should be to privilege the perspective of subordinated groups. She argues that both McKerrow (1989) and Ono and Sloop (1992) are constrained by relativistic understandings of the world, and disable individual resistance of subjects studied.

Rufo (2003) contends that critical rhetoric should demand more emphasis on a theory of rhetorical power that equips the critic with more responsibility to the material conditions of the subjects who they study. Rufo argues, like Kuypers (1996), that McKerrow's conception of praxis is hamstrung in encouraging a sustained criticism of the collective good and cannot achieve the goal of resistance. Kuypers contends, specifically, that the construction of texts by the critic distances the critic from the material conditions of the rhetoric. His concern

is based primarily in a concern with the relationship between critical rhetoric and postmodernism.

Ono and Sloop (1992), like Greene (1998), argue that McKerrow (1989) has falsely dichotomized freedom and domination, creating a division that does not exist in Foucault's understanding of knowledge/power. They argue that the critique of freedom and domination are "two perspectives of the same phenomenon" (p. 50). They offer three warrants for their claim. First, power as a force *flows*. Freedom and domination in this way are two sides of the same coin in as much as they mutually constitute power and oppression. Second, they argue that power is both creative and repressive. This conceptualization of power replaces the dichotomy set up by McKerrow with a variety of alternative conceptions of any given discursive arrangement. Finally, critique is enhanced when a critic admits a position within a context. This commitment to *telos as praxis* implicates the flow of power in the position of the critic. Moving the critic outside of their confines as a "reporter" of power structures and into a position of contingency in relation to power solves many of the critiques of post-modern political diffusion (pp. 51-52).

Ono and Sloop (1992) illustrate three ways in which a critic may take a personal position in research. The first is turning the "they" (externalization) of a criticism to a "we" (internalization or "with") (p. 58). With a stake in the criticism, Ono and Sloop argue that space is made free to conceptualize of a world with less oppression, and seek out those texts that mobilize strategies effective in negotiating less oppressive social conditions. Second, the critic should look

ahead to the potential end of criticism. In this stretching view, we are better able to locate instances in which our goals have been obfuscated, obstructed, or otherwise impeded. In taking a long view, we are better able to organize for social change. Finally, the choices a critic makes are important because it contributes to the ever-developing conversation surrounding struggles for social justice. In this way, critics must be full of care when articulating their criticism as it implicates the future of struggles for freedom. In the end, this sustained criticism of critical praxis adds changes the way in which critical rhetoricians entangle themselves in critical discourses.

Ono and Sloop (1995) propose an investment in vernacular discourses in an attempt to resuscitate critical rhetoric from the damning criticisms of postmodernism and infinite regress. Attention to vernacular discourses or those discourses crafted and utilized by oppressed communities, is a way in which rhetoricians can bridge the divides between academic practice and material resistance. They argue:

Rhetoricians cannot take the tools they have now and blithely apply them to the study of cultures. Rather, new methods, approaches, orientations, even attitudes, toward cultures need to be created. . . . [C]ritical rhetoric must be reconceived in light of the vernacular discourse that challenges approaches founded within Western notions of domination, freedom, and power (p. 40).

Western traditions of rhetoric assume dominant narratives of power that exclude and silence the voices of those that, by virtue of power matrixes, are oppressed. A

turn to vernacular discourses ensures the project of the critical rhetorician will read discourse in a polysemic way, thus fulfilling arrangements of critical praxis.

Zompetti (1997) extends Ono and Sloop's (1995) suggestions for a sustained critical self-reflexivity and critical practice reading applying Gramscian principles to the debate. Antonio Gramsci explicates hegemony to be that dominant factions in a culture or society can control the political and cultural elements of a people (Zompetti, 1997). This domination and control marginalizes the subaltern (or those who are not part of the dominant discourse). The subaltern struggle to find a cultural and political space in the overarching power structures that marginalize them while at the same time, in many instances, they operate under the presumption that hegemonic power is beneficial.

Gramsci concedes that hegemony is not immovable. He argues that there are gaps and fissures in the structure of hegemony that open up sites of struggle between the hegemon and the subaltern. One of the actors in this struggle is the "organic intellectual." Gramsci contends that *all* people are intellectuals; however, organic intellectuals are those who overcome the dominant forces of common sense. Gramsci here is not talking about contemporary notions of common sense such as one's ability to have enough common sense not to walk in the street without looking both ways. Gramsci's idea of common sense is the cultural constructions of reality created and perpetuated by the hegemony. These "realities" proliferated by the dominant powers are ideals that attempt to both marginalize the subaltern while at the same time create desire in the subaltern to belong to the ideology (Mouffe, 1979).

This is how the hegemon perpetuates itself. It not only creates norms that the subaltern cannot meet, it instills a need for the hegemon on the part of the subaltern. They begin to desire the power inherent in the system. This double bind creates dissonance for the subaltern. That dissonance in some cases causes an organic intellectual to overcome the dominant forces of common sense and begin to fight the dominant reality. Gramsci furthers that organic intellectuals are the cornerstones of any solid resistance to hegemonic forces. Their subaltern position experiences a historical moment that allows them to understand the superstructure and their subject position in that structure (Mouffe, 1979). This experience is found in a gap in the hegemonic structure. Political space is created in that moment for self-reflexivity on the part of the subaltern. This reflexivity most often leads the organic intellectual to buck the system in deference to a rearticulation of common sense to attempt to move the subject position of the subaltern.

The organic intellectual's obligation does not stop at attempts at rearticulating hegemonic constructions. The organic intellectual also spreads this new discourse to others in the subaltern. To truly begin to destroy the hegemon is to fight at multiple gaps and fissures. There is a necessity of multiple locations of struggle to waste away the power the hegemony fosters through its dominant discourse. The spreading of a new discourse serves to build collective will and cements a unifying historical block of subaltern protestors.

It is important to note the potential risks of rearticulating dominant cultural frameworks. One risk that Gramsci is particularly aware of is that a new

understanding of culture by the collective will of the subaltern could potentially translate into a new form of cultural hegemony privileging the cultural ideology of the subaltern while marginalizing others who do not identify with the subaltern (Cox, 1983). This result simply perpetuates the cycle of hegemonic construction. Another challenge that is imperative to address by organic intellectuals and other subaltern resisters is the nearly guaranteed co-optation of the newly created discourse. The hegemony is an authority that continues because it will not willingly give up the power that it currently fosters. Any fight to take all or part of its power away will cause backlash of the hegemony to maintain its status quo. Overall, however, Gramsci concludes that the benefits of changing the hegemonic common sense outweigh the continued subject position of the subaltern.

Gramsci's notion of the Modern Prince is also useful in understanding notions of hegemony and sites of struggle. First, The Modern Prince is a mythic narrative text that is used to unify a community. "This text is a "language of figures" whereby common sense becomes (re)articulated among the subaltern" (Zompetti, p. 79). This text enables common sense to be broken down and allows the subaltern to make sense of their common experiences. It is used to "unite the interests and values of the subaltern along a common terrain" (Zompetti, pp. 79-80). Such a text and its breakdown of common sense while opening space for the subaltern to share common experiences is helpful in deconstructing the dominant forces of the hegemony. This rearticulation of common cultural understandings has the potential to widen the gaps and fissures in the hegemonic structure that

enforce dominant ideologies, which is, ultimately, the goal of critical rhetoric as articulated by McKerrow, and Ono and Sloop.

The constellation of critical rhetoric, vernacular discourse, and Gramsci provides a clearer view of how a critic might proceed with a critical understanding of the Proposition 8 debate in California. However, this analysis can only take us so far in an understanding of the debate, negotiating alliances, and the blaming of African-Americans for the success of Prop 8. In order to understand and intervene in a more nuanced way, additional resources are necessary to bring to light a host of historical and intersectional considerations. Critical rhetoric alone does not necessarily produce an intersectional analysis—while critical rhetoric is necessary for a complex analysis of Proposition 8, it is not sufficient to understand the intersectional specificity of the rhetorical productions analyzed in this project. I will return here to a consideration of intersectionality before putting critical rhetoric and intersectionality in conversation with one another to derive a theoretical position that enables the analysis that follows.

Intersectionality

Wiggins (2001) explains that historically mainstream feminist movements have persistently ignored the interests of the women of color among them. Simultaneously, many racial equality organizations were headed by men, leaving women of color in the periphery of these organizations. Collins (1996) indicates that this is the moment of Afro-centric feminist methods. Developing and perpetuating black feminist thought was central to the explicit articulations of the

politics of women of color—a politics that could not and would not ask women of color to be “just women” or “just black” (Collins, p. 194). The dynamics of this position embrace the political possibility that women of color experience discrimination differently than white women as systems of race and gender converge to marginalize them while simultaneously acknowledging that women of color are likely to come to know themselves and culture within these intersections. This epistemological stance is adapted to discuss the legal conditions of women of color in Crenshaw’s (1991) germinal article. Eventually critical race scholars adapted intersectionality pushing its scope wider than a focus on black women in particular to the study of race, class, and gender in interaction in the system of white heteronormative patriarchy (Wiggins, 2001, pp. 677-678)

Leslie McCall (2005) sustains a nuanced explanation of intersectionality as a paradigm native to feminist studies. Berger and Guidroz (2009) argue that since McCall’s article, intersectional studies have spanned across disciplines in the academy with few disciplines *not* acknowledging some aspect the theory. The study of communication has been slow to take up intersectionality generally (Bacon, 2006; Cheney & Ashcraft, 2007; Enck-Wanzer, 2006), and even fewer suggesting intersectionality as a central research paradigm (Crenshaw, 1997, Moon & Flores, 2000). Those studying intersectionality generally take up debates about theory and praxis (Anthias, 2002; Bowleg, 2008; Hancock, 2007; Landry, 2007; Schultz & Mullings, 2004; Shields, 2008; Simien, 2006; Yuval-Davis,

2006; Wiggins 2001). The tension between theory and praxis will be addressed after a thorough articulation of the development of the methodology.

Very broadly, intersectionality is defined as the acknowledgement and exploration of the multitude of identities that converge to create different conditions of oppression. Crenshaw's (1989) watershed theorizing of intersectionality was primarily concerned with the intersection of gender and race identities as they converged to eliminate legal standing for black women in employment discrimination. In this case, as discussed previously, the fact that the company hired both white women and black men left black women with no legal standing. Even before Crenshaw, other scholars theorized in the direction of intersectional considerations (Davis, 1981; Moraga, 1983; Smith, 1983; hooks, 1984; Moraga & Anzaldúa, 1984; Glenn, 1985; King, 1988; Mohanty, 1988; Spelman, 1988; Sandoval, 1991); however, Crenshaw's rendering sparked the proliferation of intersectionality as a central research paradigm in women and feminist studies programs.

One of the most sustained criticisms of intersectionality is a foundational disagreement about the metaphor upon which it relies. Crenshaw's original rendering of intersectionality relied on a metaphorical traffic intersection to demonstrate how multiple constructed identity categories might find themselves related:

Black women can experience discrimination in any number of ways and that contradiction arises from our assumptions that their claims of exclusion are unidirectional. Consider an analogy to traffic in an

intersection, coming and going in all four directions. Discrimination, like traffic through an intersection, may flow in one direction, it may flow in another. But if an accident happens in an intersection, it can be caused by cars traveling from any number of directions and, sometimes, from all of them. (pp. 321-322)

The traffic metaphor has troubled nuanced understanding of intersectionality from the start. Berger and Guidroz (2009) argue that the metaphor of a traffic stop often diminishes the value of intersectionality while critics attempt to articulate possible interventions consistent with a traffic metaphor. For example, Kitch (1998) argues that the traffic metaphor can enable a reading that supposes if all subjects practice good driving habits there need not be collisions. This transfers the responsibility of navigating legal and cultural terrain exclusively to those we might otherwise study as victims of legal and cultural oppressions. These interventions are not productive for organizing feminist thought. The traffic intersection is meant to imagine a location wherein which all of the intersecting streets meet each other; they are no longer singular in form but merge and this is the place where we find individuals.

The desire for a metaphor that contextualizes the relationship between identities has been trying for those interested in intersectionality. Early in the study of identity, it became clear that an understanding of identities as additive was incomplete:

The additive analysis suggests that a women's racial identity can be 'subtracted' from her combined sexual and racial identity: 'we are all

women.’ But this does not leave room for the fact that different women may look to different forms of liberation just because they are white or black women, right or poor women, Catholic or Jewish women. (Spelman, 1988, p. 125)

A simple add-and-stir approach, a troubled metaphor itself, to the study of identity falls back into the essentialism that intersectionality, and its not so distant relative feminist standpoint theory, sought to correct in the mainstream white, middle class, heteronormative, feminist movement (Berger & Guidroz, 2009). Assuming the additive approach wrongly suggests that a prevailing identity is fundamental to an individual as if our identities can be discretely extracted from one or the other. Instead, intersectionality scholars have argued that much the same way social relations of power work—that is, they work together to cement social/cultural norms—extracting one organization of power changes all of the relations of power. In this way, presuming one identity can prevail over the others is a flawed sense of identity formation and rejects the material realities of intersectional subjects.

Original renderings of intersectionality were primarily interested in structural criticism that identified instances in the law or cultural institutions that rendered intersectional subjects invisible. Contemporary studies putting to use intersectionality primarily focus on the intersection of individual group identities in cultural ideologies with decreased attention to structural difficulties (Staunaes, 2003; Yuval-Davis, 2006). The disparate treatments of intersectionality seems largely due to conflicts over how to approach intersectionality. There is some

important disagreement concerning whether intersectionality constitutes a paradigm, theory, method, or is simply an interesting heuristic tool.

In defense of intersectionality as a paradigm, McCall (2005) sets out to explain intersectionality as a theoretical paradigm from which a variety of methods can find their home. There are two primary contexts in which intersectional studies may proceed: *institutional* and *representational*. Institutional studies of intersectionality are, per Crenshaw's (1989) original rendering, interested in how laws, rules, and regulations in the form of institutional power render those with intersectional identities powerless. These studies often take as their focus policies that affect a specific racial minority (McCall, pp. 1775-1776). The academic turn to postmodernism, however, made the study of specified, stable identity categories particularly suspect. This became especially problematic for intersectionality scholars; the very premise of their study is how those with multiple *identities* are often ignored in institutional and cultural power structures and struggles. Without a stable subject, the study of intersectionality is troubled.

In the mid-1990s, many feminist scholars wondered if the theorizing of identity was the most efficient means of enacting social change (McCall, p. 1779). Many white feminists with heightened concerns about essentialism recoiled at the idea of relying on stable identity categories and their political utility in negotiating diverse social movements. Of course, feminists of color had been critical of the essentialism that postmodernism challenged for decades. Despite this postmodern realization, it must be clear that this criticism cannot mean the death knell for an

intersectional politics. Crenshaw (1991) argues: “Recognizing that identity politics takes place at the site of where categories intersect thus seems more fruitful than challenging the possibility of talking about categories altogether” (p. 377). Alexander and Mohanty (1997) add

postmodernist discourse attempts to move beyond essentialism by pluralizing and dissolving the stability and analytic utility of the categories of race, class, gender, and sexuality...but the relations of domination and subordination that are named and articulated through the processes of racism and racialization still exist, and they still require analytic and political specification and engagement. (p. xvii)

In this way, there is no ‘end’ of identity politics but instead a turn to understanding social constructions of identity categories with more complexity. For intersectionality, this also means a study of *representations* of identities (McCall, p. 1779). This approach found its way to journals primarily in the study of one individual, or one group’s experience of oppression. The end-point of this research assumed deconstruction; these studies proceeded in the tradition of postmodernism but moved away from concerns for social change and materiality that was the responsibility of intersectional theorists.

This academic division has changed little in the 20-year tenure in feminist studies; however, McCall points out that much of these divisions have manifested in three material differences in approaches to studying intersectionality: anticategorical, intercategorical, and intracategorical. In the anticategorical approach to intersectionality, critics are skeptical about the possibility of using

socially constructed categories to initiate an analysis because trafficking in these social fictions will increase their perceived social realities. Much of the research in this vein takes deconstruction as central to its analysis. The intercategorical assumes social inequality in society and moves from there to study identity and oppression. McCall (2005) explains, “the concern is with the nature of the relationships among social groups and, importantly, how they are changing” (p. 1773). These critics do not take social constructions of identity for granted but do find these constructions as useful anchors for criticism. McCall argues that the intracategorical approach is midway between anti- and intercategorical. This approach acknowledges the culturally manufactured nature of social categories and is suspicious of their definitional boundaries but does not wholesale reject the need to work with such categories by virtue of their social significance. Studies in this approach often focus on those subjects that cross the boundaries of their social categories and explore the social implications of such boundary crossing (McCall, 2007).

With two major works that suggest organizational strategies for intersectional studies, it should become quickly obvious that there is some disputes over the nature of intersectionality in the academy. Substantial space in feminist studies journals has archived debates concerning intersectionality as method, paradigm, approach, analytical category. McCall’s (2005) theorizing of intersectionality’s methodological assumptions presumes she thinks of it as a theory, though she never explicitly states that—she refers only to intersectionality as an approach. Dill and Zambrana (2009) offer a rather extended interpretation

of intersectionality as an analytical strategy; while lengthy, its inclusion here is warranted as it makes clear the depth and breadth of the assumptions of intersectionality as a potential methodology:

Intersectionality is an analytical strategy—a systematic approach to understanding human life and behavior that is rooted in the experiences and struggles of marginalized people. The premises and assumptions that underlie this approach are: inequalities derived from race, ethnicity, class, gender, and their intersections place specific groups of the population in a privileged position with respect to other groups and offer individuals unearned benefits based solely on group membership. (p. 56)

Despite the detail, little of this organizing suggests a *method* of analysis. While several can be extrapolated from the prose above: historiography, narrative analysis, media effects, there is still little that points to intersectionality as a method of analysis. Given the nature of intersectionality, one must question if a methodological understanding of intersectionality saddles critics with an impossible burden in relation to carrying out an intersectional study. A critic in this case would be called upon to analyze inequalities among intersecting identity categories (while being critical of the stability of their constructedness), while also analyzing moments and relationships of empowerment and disempowerment, the historical trajectories that created the foundation for current relations of power, popular culture manifestations of inequality and the level to which those representations cement oppression, before, explaining the relevance and implications of their research. The burden here is enough to discourage even the

most accomplished and productive scholar from attempting such a study. This is evidenced by the many book length projects using intersectionality and very few journal articles (McCall, 2005).

Patricia Hill Collins (2000) works to make intersectionality a theory and method. She argues that four interventions are relevant: first, placing the lived experience of marginalized people at the starting point of study; second, interrogating complexities of individual and communal identities while avoiding essentialism; third, revealing or making explicit the relations of power that structure oppression; and fourth, a critical praxis—linking research and activism to close the gap between the academy and social change. Collins argues that intersectionality should be understood as a never-ending project, like critical rhetoric, but that there are numerous points of intervention that can enable the critical praxis she advocates (Collins 1998). She illustrates intersectionality as a theory in the vein of Foucauldian (1979) theory of power relations; in the same way that Foucault suggests an “interrogation without end,” she argues critics should engage an ongoing fight for social justice, one that, presuming Foucault’s rendering of power, would indeed be never-ending.

Methodologically speaking, then, there are a number of details and ideological assumptions to which the critic must attend. Initially, the critic must be explicit concerning the nature of how they organize identity. If the critic is interested in structural oppression, then the degree to which they can traffic in stable assumptions of identity differs from those interested in deconstructing those identities as they appear in culture (McCall, p. 1786). Additionally, the critic

must be clear about the nature of the relationship between the categories analyzed and why they are included in the study. For this, McCall argues that each category that is involved in the analysis must be historically or contemporarily relevant to the analysis presented. These tasks, of course, do not outline a method per se but do suggest a methodology or an approach to research that can frame the telos of a research agenda.

Criticism of intersectionality wonders about the possibility for any resolution, or a point in which the study is complete. The burden of intersectional scholars seems unbearably large taking into consideration the sheer number of socially constructed identity categories. The concern for infinite regression or inherent incompleteness is a common criticism of intersectionality and a point that many concede. There is no question that studies of intersectionality cannot be complete, or that something/someone/an identity will be left out. Even in book length endeavors, an intersectional study will always fall short of a complete understanding of the relations of power involved. Although, as McCall (2005) suggests, to suppose that a complete knowledge of a particular event or situation suggests an incomplete understanding of the condition of power.

The disciplinary understanding of power in the case of intersectionality rests foundationally on an assumption of power not unlike post-structuralist renderings of power. No matter the particular method used in an intersectional study, the assumption of power and identity categories necessarily assumes that power ebbs and flows, does not disappear when equality is achieved in any given relationship, but is not zero-sum. This constellation of power recognizes that in

any given political situation a subject/community/collective may be both empowered and disempowered in any given relationships of power (McCall, 2005). The role of the critic, then, is to extract the relationship of power to an intersectional identity status. The extraction of that relationship will reveal the degree to which an intersectional identity/community is left without resources and recourse. Luft (2009) argues the risk in assuming that intersectional identities are not microcosms of macro power structures is undeniable. Rejecting wholesale the structural nature of power ‘hollows’ intersectional analyses and bankrupts the methodological principles of the study (Bettie, 2003; Grewal 2005). An understanding of both constructed identities as well as structural inequities is central to the most complex intersectional studies.

Studies of intersectionality as they appear in the discipline of communication attempt to approach and integrate both structural and representational approaches to intersectionality, even when there is not an explicit citation of intersectionality (Carlson, 1991; Nakayama & Krizek, 1995; Harris, 1996; Orbe & Strother, 1996; Crenshaw, 1997; Dow, 1995; 1997; Harris & Donmoyer, 2000; Squires & Brouwer, 2002). These studies set the stage for the work I will do later to put critical rhetoric in conversation with intersectionality.

Darrel Enck-Wanzer (2006) writes of an “intersectional rhetoric” to explain a particular social movement’s rhetorical choices. He studied the Young Lords Organization (YLO) as they sought better living conditions in the Puerto Rican barrios of New York City in the late 1960s. Enck-Wanzer details their rhetorical strategies as a movement and their struggle to be heard. The YLO

crafted an “intersectional rhetoric” through their simultaneous use of text, images, and bodies so that political space could be filled and their demands could be understood. Like intersectionality, explained above, Enck-Wanzer emphasizes the intersectional nature of the rhetoric so that the study of one ‘part’ of the protest rhetoric could not be sufficient to articulate the protest experience (p. 191). In this way, his interest is not so much to introduce or progress intersectionality in the study of communication exchanges but instead to displace the overwhelming centrality of texts in communication studies. He challenges communication scholars to widen their lenses beyond the scope of texts to generate more complete understandings of the larger rhetorical productions they seek to analyze (p. 191-192). Enck-Wanzer’s work here is particularly relevant when discussing the possibility of an intersecting rhetoric in the Civil Rights analogy analyzed in this project. He suggests an *intersectional rhetoric* that recognizes how rhetorical productions work outside of the speaking body—that multiple forms, articulations, and understandings are possible in a single communicative event. This project will take up this question of intersecting rhetorics as I move through the analysis and alternative frameworks sections.

Marouf Hasian, Jr. (2004) explores the intersectionality of oppression in the *Desarzant* trial in New Orleans. His work is interested in racial passing in relationship to legal determinations of race. He answers the call of Wiggins (2001) to put to work intersectionality in the analysis of texts from the last two centuries to equip ourselves with a better understanding of power and its negotiation. The *Desarzant* case is significant because it stands as sort of racial

scarecrow to prevent and illustrate the consequences of a failed racial passing. Hasian's return to this case for an intersectional study illustrates the necessity to take up intersectional identities and widen the scope of artifacts beyond law. Hasian studies intersectionality in the legal sphere, he suggests that a strict reading of the law fails to understand the cultural narratives that protest dominant understandings of racialized identities. Reading the law or court transcripts alone does not tell the stories of communities of protest that expressed acceptance of multi-racial identities and inter-racial relationships (p. 121). Adding to the study personal narratives relayed and reported in archives and interviews illustrates the necessity for the kinds of "fragments" McKerrow advocates.

Carrie Crenshaw (1997) attempts the most broad and explicit welcoming of intersectionality theory to the study of rhetoric. Her interest is the development of a critical intersectional feminist rhetoric through the demonstration of news coverage of female soldiers in the Gulf War. Crenshaw argues that the integration of intersectionality is consistent with the 'ideological turn' in rhetorical studies beginning with Wander (1983) and is recognition that our rhetorical world mediates and in some cases determines our material realities (pp. 220-221). The ideological turn in rhetorical studies provides a theoretical grounding for the broader acceptance of feminist rhetorical studies and the commitment of those scholars to gender equality, though feminist scholarship in communication began much before this turn. These early feminist studies, as suggested by the need for intersectionality and feminist standpoint theory, were primarily interested in the concerns of largely white, middle-class, heterosexual women (hooks, 1984, 1989,

1990; Lorde, 1984; Collins, 1991). The fight for equality in many cases, both academically and materially, has mistakenly demanded the erasure of difference in deference to the development of community (Crenshaw, p. 221).

Crenshaw (1997) demonstrates that intersectional considerations are easily integrated into feminist rhetorical studies though they have been haphazardly realized. Crenshaw argues that rhetoricians must attend to tracing the intersection of identity through the artifacts they seek to analyze and explain. Adding an intersectional understanding to the study of rhetoric is productive in this sense. It asks scholars to be full of care when they are treating identity as discrete, separable, or distinct. It also challenges critics to be attentive to structural and cultural forces that affect the crafting and audiencing of messages (pp. 230-231).

A Conversation

Putting critical rhetoric into conversation with intersectionality requires a little background on the introduction of feminist theories to the study of communication. This history is relevant insofar as it will help us understand how intersectionality might fit in the structures of feminist rhetoric.

Rakow (1986) argues that that discipline of communication inherited a mainstream feminist view of difference and gender equality. Early work to extract a feminist rhetorical criticism involved recovery projects (Anderson, 1984; Kennedy & O'Shields, 1983; Campbell, 1989, 1993, 1994; Linkugel & Solomon, 1991; Waggenpack, 1989), analysis of feminist rhetorical production (Browne, 2000; Solomon, 1991; Dow, 1996; Condit, 1990; Huxman, 1998; Wood, Japp, Foss, Foss, & Griffin, 1991; Griffin & Foss, 1996; Foss, 1996; Foss & Griffin,

1992), and more contemporary critical interrogation of social movement rhetoric, power, and progress (Abbott, 2007; Darlington & Mulvaney, 2002; Woodstock, 2000; Koreber, 2000). This list, of course, cannot be exhaustive; however, an indication of a shared history of mainstream feminism as identity politics find their way into the study of rhetoric is evident.

Ideological and postmodern turns in rhetoric have respectively widened the scope of rhetorical studies to include much more critical work and the destabilizing of culturally constructed categories. Wander's (1983) call for an ideological turn and McKerrow's (1989) answer have directed some study of rhetoric toward a substantially critical bend. Add the Frankfurt School and the critical structure of rhetoric becomes more clear. Black feminists, queer scholars, Marxists, and others have filled in the content for those studies suggesting a critical eye to normative structural oppression as well as cultural confluences of discrimination (see Lunsford, Eberly, & Wilson 2008; Jasinski 1998).

Discursive constructions are not foreign to the study of intersectionality, so the translation to rhetorical studies is not immediately difficult. Brown (1997) acknowledges that to the extent that feminists want to reject assumptions of 'natural' gender difference, a level of social discourse analysis is necessary (pp. 82-83). She argues that "we are *produced* through discourse, a production that [is] historically complex and contingent" (p. 83). Because "language creates categorical reality rather than the other way around," McCall (2005) argues that attention to discourse is necessary for the study of intersectionality (p. 1777). Feminist practice of intersectionality has engaged methods of discourse analysis

familiar to rhetorical studies. Patricia Hill Collins (2000) traces the political, social, and cultural understandings of the idea of ‘family’ in a way that is nearly identical to the work done in ideographic analyses (McGee, 1980). Similarly, Nancy Fraser and Linda Gordon (1998) trace ‘dependency’ and Leela Fernandes (1997) studies ‘identity.’ These studies put to work, if not explicitly, ideographic analysis—that is, the study of common language terms that are over determined with political ideology (p. 7). These study examine not only the ideographs but also how those ideographs produce identities and how that production is in many ways specifically disciplining. While McGee generally articulates the disciplining power of ideographs in the state structure, Condit and Lucaites (1993), Charland (1987), and Delgado (1995) illustrate how the state or other dominant groups may employ ideographs, as well as how ideographs may be contested by subordinate groups or those participating in social movements.

While the foundations have been laid in rhetoric for a consideration of intersectionality and the two theories seem to emanate from similar philosophical origins in relation to the question of power, some theoretical work must be done to generate a productive place to start the analysis of this research project. Emerging at simultaneous historical moments in contemporary scholarship, and working from much of the same philosophical underpinnings, critical rhetoric and intersectionality are consistent in their belief that power is both oppressive and productive. I begin the conversation here with a challenge from Choo and Ferree (2010). Choo and Ferree, both sociologists, argue that recent studies of intersectionality illustrate the point of intersectionality but lack the ‘analytical

bite' that keeps the theory contemporary and relevant. They suggest that scholars from all disciplines reinvigorate the "system-level complexity" as a means to enliven the "micro-level" analyses of relations of power in lived experience (p. 132). A reworking of both theories provides us this opportunity.

They push further suggesting that intersectional studies often focus exclusively on the intersectional identity the critic seeks to analyze rather than challenging and interrogating the systems that oppress (p. 145). Choo and Ferree challenge intersectionality scholars to not only identify those oppressed by systems of power but also give time to an analysis of the operation of those systems of power as they interact with each other. Choo and Ferree call this the 'feedback loop.' They argue scholars should pay more attention than they historically have to the feedback loops in and among the interlocking systems of power to more concretely understand how the systems work and work together.

To begin, both theories begin with an initial and important assumption about power, that it is systemic and socially constructed, though materially relevant. This is evidenced by McKerrow's (1989) rendering of the critique of freedom and the critique of domination and Collins' (19996) articulation of the "vectors of oppression and privilege" (Ritzer, 2001, p. 204). It is worth noting here that both theories lend themselves to an empathy with those who experience oppression. In this way, the consideration of privilege in oppressed conditions is often muted. Critical rhetoric, though, is specifically articulated to avoid this tendency. McKerrow's offering of the critique of domination is an analytical tool wherein the critic can specifically articulate the conditions of power as it is

productive in newly formed relations of power. In this way, on the question of power critical rhetoric provides a mechanism for intersectionality to turn a critical eye inward to evaluate the new relations of power as they form around new social arrangements. Or put more simply, as critics we can analyze new social relations after social change that is the telos of each theory.

In this vein, the critique of domination and the interrogation of the matrix of oppression are complimentary. For critical rhetoric, the integration of specific levels of analysis help to organize the critiques that can be leveraged here. Collins (2000) identifies four levels of analysis: structural, disciplinary, hegemonic, and interpersonal. Structural criticism is invested in how laws, religion, economic relations, etc., organize power. This level of power is resilient to changes and challenges and has historically been destabilized by large-scale social movements. Disciplinary analysis consists of criticism of bureaucratic organizations that organize and control cultural behaviors. Collins argues that it is at this level that a critic is likely to find cultural institutions that are crafted “to hide the effects of racism and sexism” (Collins, p. 280).

Hegemonic criticism explores the “contexts, community, cultures, family histories, religious teaching, media” (p. 284). Borrowing from Max Weber, Collins (2000) argues that authority functions only to the extent that people believe in it and follow it. As Collins writes, “racist and sexist ideologies, if they are disbelieved, lose their impact” (p. 284). This believing or disbelieving is predicated on an analysis of interpersonal affairs. Collins argues that individually, those of oppressed groups may self-select to prefer one ‘type’ of

oppression. For examples, Collins argues that many black women will prioritize their racial status as more prevalent to their experience of oppression. This selection is primarily based on what oppression they have materially experienced. Collins suggests that this selection is problematic because it backstops a more nuanced understanding of systems of power but also because it prevents individuals from seeing the situations in which they may be oppressing others. An individual or group emphasis on victimization, exclusively, produces the conditions under which their personal experience of oppression is more important than other forms of oppression.

Understanding these four domains of the matrix of domination as articulated by Collins (2000) adds organization to McKerrow's (1989) renderings of the critique of freedom and domination. Combining the four levels of criticism to the systemic motivations of the critique of domination speaks with more depth to varying levels of power that converge to maintain dominant relations of power. The depth that these four levels demand justify the mosaic of artifacts that McKerrow suggests is the responsibility of the critic. The majority of intersectionality studies do not take as their subject rhetorical texts let alone a compilation of texts for consideration. Instead, these studies often analyze a law or ideology and proceed conceptually from there (McCall, 2005). In this way, intersectional analyses would benefit from the addition of critical rhetoric's disposition towards the collection and analysis of rhetorical texts.

The critique of freedom in particular ties back to the commitment to telos suggested by Ono and Sloop (1995). Intersectionality possesses a similar

commitment to telos—that a political stake must be claimed, and a critical praxis ought to be engaged. The necessary contingency of telos in both cases draws respective criticism. As previously reviewed, Cloud (1994) articulates suspicion that critical rhetoric is equipped with the essential tools for articulating and enacting a critical praxis. Her alternative to a potentially exclusive focus on academic and disciplinary advancement is *immanent realism*. This simply states that a critical praxis should privilege the interests and perspectives of those oppressed. Immanent realism as a sustained practice is likely the result of any critical intersectional rhetoric given the demand of both in interrogating the terrain of relations of power. However, Alcoff (1996) demonstrates a similar concern for studies of intersectionality. She argues for a *critical realism* that demands a balance between our academic search for new knowledge and the material lives of the communities and subjects we study. Alcoff criticizes positivists and postmodernists respectively for their over-emphasis on the maintenance and progression of academic pursuits at the expense of what we learn and could apply in the direction of social change and resistance. Critical realism demands a critical praxis of intersectionality scholars.

It appears both from Cloud (1994) and Alcoff (1996) there remains a concern about a divergence from standpoint theory and critical praxis for intersectionality and critical rhetoric, respectively. A merge here of immanent criticism and critical realism may ameliorate both scholars' concerns regarding the too-frequent distance between scholars and the communities they study. Immanent criticism alone does not ensure the material intervention that Cloud is

advocating; it only advises the critic to prefer the position of the oppressed in critical rhetorical studies. Likewise, critical realism does not guarantee the critic prefers the position of the oppressed. Critical realism instead insists that the critic balance or minimize the goals of academic progress and material interventions. A fusing of these two alternatives would create the conditions under which the critical intersectional scholar should prefer the interests of those oppressed and should be responsible for intervening in the relations of power they articulate or trace as oppressive.

Finally, McKerrow's eight principles of praxis can provide specific methods for analysis in intersectionality. Collins (2000) explains that academics by virtue of their training in the hard sciences and scientific training in the humanities are often stuck in what she calls "dichotomous oppositional difference" or in thinking that seeks out and marks difference wherever possible. Add a theory and method that is interested in understanding difference to some degree, and the effect is multiplied. Collins warns that critics must find ways to discuss relationships without suggesting dichotomies that over simplify the complexity of power that the theory rests upon. hooks (1990) suggests the consequences of such thinking reinforces difference at the expense for coalition building. Underscoring dichotomies enhances difference as oppositional instead of seeking common ground among those that experience oppression. In this way, critical rhetoric offers through several critical praxis' suggestions and strategies for avoiding this pitfall.

Critical praxis number five cautions scholars not to mistake influence with causality. To the extent that power is disciplinary and oppressive enough to warrant critical studies, simple linear relationships are impossible to draw or defend. Suggesting relationships of influence prevents the critic from falling into such pitfalls and fallacies, and highlights the ‘matrix’ structure of power. Rendering power structured as a matrix should encourage critics to articulate the fluid nature of power as it moves in and through relationships.

Primarily, critical praxes four and seven have the most to offer a study as intersectionality is challenged to investigate rhetorical productions. Praxis four reminds critics to understand that “naming is the central symbolic act of a nominalist rhetoric” (McKerrow, 1989, p. 105). This simply means that rhetoric that seemingly has connections or relationships may only have those by name. This praxis demands that critics pay close attention to the context of the rhetorics at work in any given situation. McKerrow provides the example of a man of color experiencing Jamaica as an insider, and then as an outsider. His experiences if the subject of analysis must be attended to contextually. Moving intersectionality into the study of rhetoric would heighten this demand for contextuality. Tracing rhetorics that are intersectional requires a close analysis of the contextual historical and cultural circumstances in which those rhetorics empower certain members of a movement and disempowers others, and under what conditions the context influences the effectiveness of such rhetorics.

Praxis seven also ensures a more holistic criticism of intersectional rhetoric. The collection of a ‘mosaic’ of rhetorical artifacts that serve as the texts

for a critical intersectional study can and should be read as polysemic. The extent to which critics are able to understand intersectional rhetorics as “perspectival” encourages an engaged historical account of relations of power as well as contemporary manifestations of similar ideological thinking (McKerrow, 1989, p. 107). Looking towards an intersectional rhetoric, then, the question of polysemy becomes central, particularly to the study of social movement rhetoric. The historical citations of previous form and content of movement rhetoric seem an inevitability in the democratic structure of resistance in the United States. The success of past movements necessarily encourage emulation in contemporary movements; the task of the critic in intersectional rhetoric, then, is to trace the power that moves in and through social movement activity generally, then specific articulations of movement rhetoric that emanates from a position of resistance. Tracing power and constellations of oppression will foreground implications for articulating differences and parallels in movement experience, rhetoric and oppression.

Finally, critical rhetoric’s emphasis on doxa enables an intersectional rhetoric to focus on not only tracing the relations of power as they converge to oppress intersectional subjects, but also underscores the obligations of the critic to complicate the fluid and contextual configurations of power. Feminist standpoint theory from its inception has been interested in discovering and allowing space for specific intersectional epistemologies to emerge (Collins, 2000). Moving towards intersectionality is a way to merge the demands of difference and the desire for coalition building. Shifting focus to doxa provides ample ground from

which to interrogate the ways in which discursive construction and rhetorical production play a role in maintaining and enhancing the seamlessness of power in oppressing those with intersectional identities and preventing potential coalition building. Understanding how converging systems of power and discipline make available or unavailable discourses of resistance is invaluable to critical intersectional rhetoric. Critics can more readily articulate the rhetorical freedoms and constraints faced in progressive movements interested in social justice.

Balancing this focus on doxa with an interest in episteme encourages the exploration of alternative discursive frameworks for articulating intersectional concerns while also negotiating similarities to resist a matrix of power that oppresses in parallel senses. Critics should push their studies to investigate such articulations, negotiate their possibilities for resistance and coalition building, and ultimately suggest, in the vein of critical praxis, a potential practice for rhetorical productions. The twin goals of unmasking and demystifying relations of power as well as preferring the voices and experience of those that experience the oppression of such power is fulfilled in these obligations.

In the end, a critical intersectional rhetoric encourages critics to interrogate and understand the discursive constructions of power and identity as they influence articulations of difference and coalition building in the interest of progressive social justice. Already foundational to both theories on their own is an attention to critical praxis and the deconstruction of ideological manifestations; a critical intersectional rhetoric would maintain these commitments with a focus the rhetorical practice of articulating difference while maintain space for an emphasis

on paralleled oppressions. A critical scholar may investigate the possibilities of social movements, for instance, to borrow both strategic *forms* of rhetoric as well as some *content* to achieve equality. Simultaneously, the critic should be interested in the conditions under which this choice is made over other possible alternatives, how the choice might advance the goals of an oppressed group, and finally, the consequences of such a choice for coalitional possibilities with other communities that share a parallel oppression.

Chapter 3

IS GAY THE NEW BLACK?

Identities are embodied horizons from which we each must confront and negotiate our shared world and specific life condition. They are largely unchosen and absolutely require interpretation and explanation.

Linda Martín Alcoff, *Visible Identities*

I begin the analysis and discussion here knowing that my account of Proposition 8, the campaign rhetoric, and the many intersectional demands can never be complete. While my goal is to demonstrate relationships among rhetorical strategies, identities, and systems of social oppression, these relationships are complex—a primary tenet of critical rhetoric already supposes this is the case. Adding intersectionality to the mix complicates the degree of complexity. Resisting a bracketing of any intersection, the analysis and discussion provided here details critical intersections as they occur in specific rhetorical events as well as how they develop across the campaign. The ads analyzed here were central to the communication of the No on 8 campaign, a primarily television ad-based campaign. I also analyze the communiqués of the campaign as well as media coverage after election night November 2008. These texts, taken together, provide a degree of specificity as well as fuel an understanding of the broader context of the debate on the ground as it unraveled in California. I proceed, then, with an analysis of the television ads commissioned and/or produced by the campaign, a look toward the attempts at coalition building, the media fall-out after Proposition 8 passes, and engage a critical conversation of the decision in *Perry v. Schwarzenegger* before drawing

out major themes as they appear across the campaign.

Television Ads

The first ad crafted by the ‘No on 8’ campaign, *The Thorons*, positions a husband and wife in their living room: Julia and Sam. They represent the average white middle class heterosexual couple. They explain in turn that they have been married for 46 years and raised three children who are now adults. Sam states, “My wife and I never treated our children differently. We never loved them any differently, and the law shouldn’t treat them differently either.” During Sam’s narration the camera zooms to a family photo of the Thoron family. The picture includes both Julia and Sam, their children and grandchildren. Julia adds, “If Prop 8 passes our gay daughter and thousands of fellow Californians will lose the right to marry. Please don’t eliminate that right for anyone’s family.” A third voice narrates: “Don’t eliminate marriage for anyone. Vote no on Prop 8.”

The photo poses the only embodiment of homosexuality in the commercial. The photo appears on the screen for two and a half seconds. In those moments, what can be discerned from a cursory glance is the family together posing for a picture. A frozen frame of the image reveals four couples: Julia and Sam and their three children with their respective husbands and wives. Their daughter and her wife are pictured at the far left of the picture and are the only couple in the photo are not holding or do not appear to have any children. No text or image in the commercial requires specific attention be paid to the question of homosexuality except when Julia, the mother, suggests that their gay daughter would not be allowed to marry. The remaining content of the

commercial is free of any references that would ask the audience to address sexuality, except the normative heterosexuality of Julia and Sam.

The images and rhetoric of this ad, and the subsequent campaign, feature prominently the seeming naturalness of heterosexuality while making remarkable homosexuality. While the dominating narrative in this ad expresses equality among the Thoron children in relationship to their upbringing, the story marks a physically absent difference. This choice sacrificed a material understand of sexuality.

The absence of homosexuality is, of course, conspicuous when the substance of Proposition 8 is the denial of marriage rights to same-sex partners. *The Thorons* is not the only ad that maneuvers around the subject of homosexuality. Samuel L. Jackson narrates *Discrimination*, the last of the ads produced for the No on 8 campaign. *Discrimination* aired just one week before election day in 2008. The ad was a 32 second spot aired during prime time television throughout the state. Samuel L. Jackson does not make a physical appearance in the ad; instead, images of Japanese internment, Mildred and Richard Loving, and segregated doors and water fountains dominate. The ad communicates the history of discrimination in the state of California. Patrick Guerriero, director of the 'No on 8' campaign, suggested the ad was crafted with the goal of reminding Californians of past instantiations of discrimination and inequality in the state. He argued, "this state has a long history of discrimination. We have been here before and made the wrong decision. We have the opportunity, this time, to be on the right side of history" (Eleveld, 2008).

The text of the ad details the history of discrimination Guerriero seeks to articulate:

It wasn't that long ago that discrimination was legal in California.

Japanese Americans were confined in internment camps. Armenians couldn't buy a house in the central valley. Latinos and African Americans were told who they could and could not marry. It was a sorry time in our history.

As Jackson narrates this history, visual images representing these time periods appear in succession. Images of Japanese Americans getting on buses fades to a shot of full internment camps in California. These images are followed by a sky-view shot of the central valley of California, with an image of case law that articulates the law against Armenian home ownership. The screen then fades to a seated picture of Virginia and Richard Loving foregrounded by case law text with the words "Marriage of white and other persons...is illegal and void" highlighted in yellow.

Samuel L. Jackson then turns to the question of Proposition 8, "Today the sponsors of proposition 8 want to eliminate fundamental rights. We have an obligation to pass along to our children a more tolerant, more decent society. Vote no on Prop 8. It's unfair and it's wrong." Jackson's narration is visually aided with three sequential pictures of people in seemingly normal scenes in average lives: A large family celebrating a birthday. The family is pictured gathered around a cake with candles on it. Four adults and five children fill the screen. This fades to an image of two men sharing a table; two coffee cups and a

newspaper populate the table. The final photo is one of two adults and two children walking arm-in-arm down the beach at sunset.

The text and images of *Discrimination* were the most fierce and direct appeal to the civil rights movement of all the No on 8 commercials. The ad takes on a history of ethnic and racial discrimination in California. Specifically the citation of *Loving v. Virginia*, a groundbreaking case for civil rights, is the only instance of discrimination that directly relates to the question of marriage in the ad. Analogy logic, or a specific articulation that the fight for gay marriage is like the civil rights movement, is not present; instead, it functions as a call to understand racial and ethnic oppression and the logic of homophobia operate under the same systems of power. Ultimately, Jackson argues that the voters of California can control the material expression of such oppression in the California constitution. While the intention of the ‘No on 8’ campaign may have been to emphasize the *similarities* between the logics that oppress such as racism, sexism, xenophobia, and homophobia, it appears as though the analogy between miscegenation laws and Proposition 8 is most likely a question of equivalencies. While the argument for equality that initiated the campaign’s rhetorical strategy is not contextualized in the civil rights movement, it moves in this direction both in the *Discrimination* commercial and other mediated outlets discussed later. Ultimately, what began as an argument about the similarities between the two struggles moved swiftly to analogizing logic that presents them as the same struggle.

The *Discrimination* is unique in that it features photos of families that do not mandate a normative reading of family structure. That is, no image, with the exception of the last image, can be read as a strictly heterosexual configuration of ‘family.’ The first image does not suggest a homosexual relationship, but it does not also, in the vein of other commercials, suggest a traditional ‘nuclear’ family. The second image is of two men sitting at a table, though nothing in the picture specifically marks them as a homosexual couple, the context of the ad might suggest a homosexual relationship. Unfortunately, the materiality of homosexuality is once again deferred in the final image of a heterosexual couple with their two children on the beach. While their faces are positioned away from the camera, a quick glance and a sustained analysis of the image points to a male and a female with two children. While this configuration offers no certainty of heterosexuality, its symbolic weight anchors a traditional reading of the family as a heterosexual constellation.

The argument by enthymeme appears in both the text and the images of the *Discrimination*. Jackson narrates: “Today the sponsors of Proposition 8 want to eliminate fundamental rights.” In this way, gay marriage is enthemematically associated with ‘fundamental’ or civil rights. The commercial does not explicitly name the issue of gay marriage. Without naming gay marriage specifically, and without showing more images of homosexual families, it is difficult to recognize this commercial as one in favor of gay marriage in policy or in theory. The use of euphemisms for gay marriage and the absence of gay and lesbian representation is a common theme throughout many of the ‘No on 8’ ads.

The Thorons and *Discrimination* taken together, here, represent the two dominant rhetorical strategies of the ‘No on 8’ campaign. *The Thorons* embodies a neoliberal argument for equality at the expense of recognizable or detectable difference, while *Discrimination* is a material embodiment of hailing the civil rights movement without articulating careful points of difference or working materially towards meaningful coalitions with African Americans. Neoliberal politics seek to normalize equality through the rejection of articulations of difference, systemic oppression, and subsequently cultural norms and governmental policies that attend to historic and contemporary inequality (Chomsky, 1999; Comaroff & Comaroff, 2000; Duggan, 2003).

Neoliberal politics lends cultural credence to explications of “post-racism,” “post-feminism,” etc. Academic interpretations of post-identity ideologies have suggested, and rightfully so, that the “post” position is dramatically and tragically disconnected from the material realities of those identities that are marginalized. It seems inevitable taken to its logical end that post-identity politics would necessarily impact those with multiple underserved/oppressed intersectional identities most severely. In short, there is little room in neoliberalism for articulations of oppressed identities—including intersectional identities that occupy multiple convergent systems of domination. Some argue that neoliberalism works in the direction of providing outlets for the consumption of the exotic other and putting Western curiosity to use may garner benefits from neoliberal flows of capital. Duggan (2003) specifically argues while there are instances in which neoliberal policies create beneficial conditions

for some, neoliberal politics on balance makes the living conditions of those not in the most elite of classes much worse (p. 7). The No on 8 campaign participates in the logic of neo-liberalism at the expense of an awareness and understanding of history, and subsequently, coalitional politics.

Reading “post” not as politically beyond but as politically ‘over’ or ‘fatigued’ with identity politics contextualizes the weariness that many experience in relationship to identity politics, particularly those who may feel implicated, by virtue of their privilege, in critiques of power. Whiteness, heteronormativity, and class assumptions, then, thrive in this atmosphere. Squires, Watts, Vavrus, Ono, Fey, Calafell, and Brouwer (2010) most recently attended to the trouble of the “posts.” Their articles, the progeny of a panel at the 2009 meeting of the National Communication Association in Chicago, Illinois, take on the question of identity politics in what some call a post-racist and post-feminist world. Their analyses document the ways that post-ideological thinking compresses identity to a shared concern for social justice with an explicit rejection of articulations of difference. Calafell recalls tragic interactions and broken friendships with colleagues after her panel presentation that suggested that too often in the interest of coalition building many white academics and activists overlook the important work of acknowledging difference within, and more emphatically *before* coalitions are created. The move towards coalition building according to Calafell, can be a privileged move, particularly when that move is meant to replace important political work in difference. Moving towards coalition work assumes a politically situated identity and base to work towards goals. If social organizing is to happen

toward the end of coalition building, an agenda that is in mutual interest may be a necessary baseline.

Calafell (2010) documents suspicion from other academics and activists to her concern for an articulation of queer Chicana identity. She illustrates that such suspicion can sometimes be relevant but is also, often, the manifestation of a fear of decentering whiteness as a dominant discourse (p. 243). This choice stands to reinforce a neoliberal white subject when complaints of racial oppression are externalized to the other. In this case, Calafell is made to be suspect because of her insistence on a queer Chicana identity instead of colleagues turning their insecurity inward towards an understanding of their own whiteness. Rockler (2006) articulates this move as the substance of a post-identity politics rhetoric: “personalizing identity politics,...scapegoating the marginalized, and the transparency of the normative gaze” (p. 461). As in Calafell’s reported experience, the study of whiteness reveals white subjects desires to externalize difference in deferral of self-conscious understandings of one’s own complicity in systemic oppressions. These are also foundational principles of whiteness articulated over 15 years ago by Nakayama and Krizek (1995).

The Thorons commercial is an exemplary manifestation of traditional white middle class heteronormativity. The commercial presents a ‘traditional’ family, the mother and father expressing a deep love for their children. This nuclear unit is underscored by the panning images of a family dinner where their adult children are present with their husbands or wives and their own children. The commercial makes no gestures towards constellations of families that are not

white, heterosexual, or middle class. *Discrimination* featuring the narration of Samuel L. Jackson, an African American man, works to chart questions of race but only in the service of articulating a history relevant to the progress of gay and lesbian rights to marriage. While the commercial appears to attend to history, it is deprived of any depth. In this way, the civil rights movement becomes a cipher used as a mechanism for a neoliberal commitment to ‘equality’—drained of any sustained critical awareness of difference or systemic oppressions (Ono & Buescher, 2001). Ono and Buescher argue that ciphers are concepts that are drained of their political meaning in an effort to make a commodity palatable to markets. In this case, the cipher is the civil rights movement as it is drained of its history in order to be purposed for gay marriage. I argue here the civil rights movement becomes a cipher and not an ideograph (McGee, 1980), because in the case of the ‘No on 8’ campaign the attempt is to hail the Civil Rights era without a consideration of ideological complications or commitments to the movement. The implication of crafting the civil rights movement as a cipher is to once again defer an acknowledgement of contemporary racial struggles.

While *Discrimination* attempts to capitalize on the civil rights movement and, by assumption, black voters who may turn out to polls in higher number for the soon-to-be President Barack Obama, the only ad that featured him aired just one day before the election. This was a reactionary ad to a robocaller, created and funded by the ‘Yes on 8’ campaign, that suggested Obama supported the proposition. The programmed telephone ad, that automatically called over 500,000 voters targeted in African American neighborhoods, argued that Obama

was opposed to gay *marriage*. In the ad *Divisive* the ‘No on 8’ campaign featured the opinions of prominent California leaders: Governor Arnold Schwarzenegger, U.S. Senator Nancy Pelosi (CA), U.S. Senator Diane Feinstein (CA), and now President Barack Obama. While Obama did not support Proposition 8, he also does not support gay marriage. His advocacy, during the campaign, is that civil unions grant gay and lesbian citizens the same rights as marriage (Shear, 2010).⁴ This ad is notable both as a reactionary commercial that features only a moment of the most politically powerful candidate at the time, and as it comes so late in the election cycle. If the ad was meant to counter the claims of the robocall it is curious that Obama only appears for a brief moment. Further, that no ads had previously included Obama’s opposition to Proposition 8, a position he made clear in the primaries, is even more curious. This seems, like the question of sexuality, to make clear a remarkable absence in what should have been an easy and persuasive presence.

The ad shows each politician’s headshot with a quote that rejects the passage of Proposition 8. A headshot of Obama appears first, with the text and narration: “Barack Obama says no on 8. It’s divisive and discriminatory.” The ad continues,

⁴ On February 23, 2011 in a letter to the Department of Justice, Attorney General, Eric H. Holder, informed the department that the Obama administration would no longer defend Section 3 of the Defense of Marriage Act. Section 3 prevents the federal government from recognizing the validity of legal same-sex marriages as they are legalized at the state level (Foster, 2011). Obama also stated that he continues to grapple with gay marriage.

Arnold Schwarzenegger says it should never happen. Prop 8 eliminates rights, says Diane Feinstein. It's a terrible mistake. Nancy Pelosi and the California Board of Teachers say prop 8 will not affect teaching in our schools. It's intolerant. Offensive. And the law should not discriminate. No matter how you feel about marriage, vote no against discrimination and vote no on 8.

The last line is repeated amply throughout the campaign and at the end of most commercials, speeches, and reading pamphlets from the No on 8 campaign. This quotation appears to be the most explicit severing of sexuality in deference to a civil rights strategy. The strategy here is to remove the question of gay marriage, with its complicated religious and moral questions, to make a direct appeal to equality and nondiscrimination. This strategy does not generate equivalencies between the civil rights movement and gay and lesbian movements for marriage equality, but it does set the important cornerstone from which those articulations will later find themselves recognizable in the campaign.

In the commercial *Backwards*, gay marriage is also never named explicitly, and the civil rights analogy becomes more intelligible. This ad aired only a few times and was commissioned and paid for by the Republicans Against 8 organization that worked very loosely with the No on 8 campaign. I have chosen to analyze it even while it is not a formal No on 8 commercial because the rhetorical strategy is commensurate and the citation of the civil rights movement is compelling.

The terms ‘gay’ or ‘marriage’ never appear in this commercial. Instead, the writers used euphemisms: “California dream” and “moving forward” replace instances where naming gay marriage would have been appropriate, even expected. The commercial asks “Would you run backwards? Bike backwards?” The images accompanying the voice over are of a white male running out of the ocean with a surfboard backwards, and two white women biking down a neighborhood road backwards. The commercial continues, “Then why take California backwards?” with a black and white camera shot of a sign that reads: “colored waiting room.” “Why go back to a time when some Californians did not have the same rights? That’s where proposition 8 would take Californians: backwards.” The camera pans to images of Japanese internment flyers nailed to light poles, a ‘whites only’ sign hanging above an entrance, and a sign on a door that reads: ‘FAGOTS-STAY OUT!’ The commercial finishes with images of two heterosexual couples (one couple is white and one couple is black) as well as an image of a lesbian couple, and the statement: “Or we could keep moving forward. It’s your choice. Protect the California dream for all families [images of both heterosexual couples]. On Nov. 4th Vote no on 8. [image of a lesbian couple]. It’s unfair, it’s unnecessary, and it’s backwards.”

This commercial, much like *Discrimination*, uses the images and rhetoric of historical racial struggles for equality as evidence for the thesis that discrimination is wrong. *Backwards* differs from *Discrimination* in its use of familial images that communicate homosexuality. The ad ends with a photo of two women walking together arm-in-arm on the beach. Contextually, reading

these two women as lesbians is validated by the preceding appearance of two heterosexual couples against the narration: “Protect the California dream for all families.” The appearance of a heterosexual African American couple seems to fulfill cultural perceptions of African American heterosexuality but also feels tokenized given their merely citational presence in the use of civil rights movement rhetoric and images. The connection between the laws and the people who are oppressed is lost here. A two second shot of a heterosexual African American couple seems sufficient to the authors of the ad to tie together the history of oppression with contemporary freedoms the couple presumably enjoy. As will be argued in the analysis of these ads later, the disconnections between ‘the law’ and ‘the body’ are ways in which race and sexuality can be avoided as moments of trouble for the subjects who experience oppression at their intersections.

The *Yes vs. No* commercials remain consistent with a disengaged disposition to sexuality outside normative understandings. Two *Yes vs. No* ads aired and were paid for by the ‘No on 8’ campaign. They took the form of the Mac vs. PC commercials from the late 1990s. A young man in jeans, converse tennis shoes, and a hooded jacket appears as ‘No’—and embodied representation of a ‘No’ vote on Proposition 8. ‘Yes’ joins him in the camera shot. ‘Yes’ is a middle-aged man with a receding hair line, and a few extra pounds. In the first commercial of the series the two interchange about what a ‘yes’ and a ‘no’ vote on Proposition 8 amount to:

‘Yes’: Hi. I’m Yes.

‘No’: And I’m no.

‘No’: I’m into preserving the constitution, equality, and fairness.

‘Yes’: I’m into eliminating rights. But just for certain people, so it’s cool.

I want to preserve tradition by putting discrimination into the constitution.

‘No’: I maintain the current constitution and ensure everyone has equal right. I’m into fairness and dignity.

‘Yes’: Name one thing more important to Californians than stopping gay marriage.

‘No’: The economy, unemployment, healthcare, the war, the environment. We are all Californians, we are all equal, let’s keep it that way. Make sure you, your friends, and your families vote no on Prop 8.

The commercial and the exchange are simple and forward. ‘Yes’ is made to look like a fool for his frivolous focus on gay marriage at the expense of a host of other social, economic, and political issues that ‘No’ feels outweigh the banning of gay marriage. This commercial is unique for two reasons; first, it marks gay marriage explicitly, and second, it demarcates an understanding of social agendas that may not have gay marriage atop their list. It is important to note this conscious awareness of social agendas because there was palpable derision of those that do not hold paramount the politics of gay marriage just after the November election. Those that did not find gay marriage immediately relevant, many in the African American population, were dismissed as selfish. This exchange was underscored best in the Cannick-Sullivan exchange detailed in the introduction and later in this analysis. Ultimately, the argument here is that it is acceptable for *the nation* to

have an alternative agenda but not for groups that *should* be supporting the gay marriage agenda.

In a second commercial, ‘Yes’ and ‘No’ appear on screen with the ‘Constitution.’ The ad proceeds with ‘Yes’ attempting to “hit on” on the ‘Constitution, who is a young attractive woman dressed in a white blouse, a black professional skirt, and black heels. She appears on the left side of the screen slightly angled away from the ‘Yes’ and ‘No’.

‘Yes’ elbows ‘No’: Who is She?

‘No’: She’s the California constitution.

‘Yes’: Wow. She is more beautiful in person. I’m totally going to amend her.

‘No’: I think she’s perfect just the way she is.

‘Yes’: Yeah, but she would be even better with a little discrimination in her, you know what I mean?

‘Yes’ walks over to the ‘Constitution’: Hey, so what are you in to?

‘Constitution’: Equality, justice, I guess you could say I’m into giving everyone a fair shot. What are you into?

‘Yes’: Oh me, you know, just deciding what’s appropriate for everyone else, government involvement in people’s personal lives, judgment.

‘Constitution’ slams shut the book she is reading: Maybe you should go play with something other than the state’s constitution. [She leaves the scene].

Without a complete disregard for the tongue-in-cheek nature of this ad, the scene is significant because it is the only commercial where desire is featured either in the text or images.

Judith Butler (2004) argues that both sides in the debate over legal recognition of homosexual relationships are invested in a desire to define “who may desire the state, *who may desire the state’s desire*” (p. 111). For Butler, the state becomes the object of fantasy insofar as it confers legitimacy on those it desires. This conception of the state also carves out a space in which the right to desire the state at all is crafted. The *Yes vs. No* ad, in its sexualization of the constitution, adds an interesting and complicated read of the status of desire. ‘Yes’ perpetuates the objectification of ‘The Constitution’, but only an amended or reformed version of her. He desires the state’s exclusive desire, not to be shared with others. ‘The Constitution’ understands that ‘Yes’ desires her but maintains her ‘purity’ in the face of his advances. All the while, ‘No’ remains desire-neutral in terms of his performance in the commercial. ‘No’, in some respects, defends the integrity or purity of ‘The Constitution’ as ‘Yes’ makes his sexual suggestions. Indeed, ‘No’ argues that ‘The Constitution’ “is perfect just the way she is.”

In the case of Proposition 8, the economy of desire that Proposition 8 threatens to disrupt is an economy in which the state desires both heterosexual and homosexual marriage. The characterization of ‘Yes’, then, is consonant with Butler’s rendering of *competition* for the state’s desire. The position of ‘No’ as lacking discernable desire complicates Butler’s renderings of desire. ‘No’ should

just as surely battle for the desire of the state. In the case of California, the burden of desirability is flipped in the interest of universal marriage for homosexuals. As such, 'No' can be read as either confident in the status quo wherein everyone has the right to marriage, or as a figural representation of non-violent sexual desire.

The juxtaposition between 'Yes's' aggressive sexual advances and 'No's' relaxed attitude are striking. A simple read might understand these as caricatures of heterosexual and homosexual counterparts. In this read, heterosexuality is aggressive, violent, and dirty while homosexuality is relaxed, sexually disinterested in the female representation of the constitution, and attempts to counter the desire to change her. An additional understanding of 'Yes' and 'No' might also read them as representational of ideological positions where 'Yes' is violent exclusion from constitutional protections and 'No' is content inclusion.

'No' seems confident that the constitution already protects him/desires him. His expressions in the commercial mark his confidence. He attempts to protect the constitution from the aggression of 'Yes' and when the 'Constitution' is speaking 'No' looks confidently at the camera smiling and nodding yes when she comments that she is interested in freedom and justice. The moments that could be read as insecure are when he fears the aggressiveness of 'Yes'—the forcible amending of the 'Constitution' is an affront to the values she expresses.

Regardless of how one reads the figural representations, this ad crosses lines of appropriateness. Routing the question of gay marriage through sexual violence is unacceptable and counterproductive. While the level to which 'Yes' in

this commercial expresses attraction for the ‘Constitution’ is fairly innocuous, the rhetoric of forcibly ‘amending’ her and putting a little discrimination ‘in her’ suggest violence recognizable as assault. The implication of sexual assault here is troubling because the ‘Constitution’ is the only characterization of women or the feminine in the commercials. Significantly, she is the subject of violation which traffics in traditional forms of denigration and abusive representations of women. While she is not a victim in the commercial—she walks away physically unharmed—she remains an *object* of desire instead of a subject. Such a characterization of a feminine ‘Constitution’ buys into a long history of the objectification of feminine subjects. This reading of women is not unfamiliar in popular media or women’s exclusion from many social movements. This sort of violence, even if in jest, influences the degree to which women might feel welcome in movements.

Vaid (1996) speaks to the storied history of misogyny in mainstream gay rights movement—privileged white gay men early in the movement ignored and even demonized the work of lesbians as ‘man haters’ in much the same way the feminist movement was tagged and continues to be characterized. This is in addition to the long history of sexual abuse of African American women, the subject of discussion as this chapter continues.

On October 29th, 2008 the ‘No on Prop 8’ campaign made political campaign history by using an ad created and uploaded to Youtube by individuals not formally affiliated with the campaign (www.eqca.org). The ‘No on 8’ campaign approached the producers of *Moms* to gain permission to edit their

original rendering to a 30 second commercial. This ad is remarkable, not just because of its novelty but also for the translation from the original ad to the aired ad. The differences between the two are important. The commercial that aired was true to the text of the ad:

Hi. Hi. Hi. I'm a mom living here, right here in California. So am I. So am I. So am I. On November 4th I'm voting no on Proposition 8 because I want my kids to know about the American Dream; about dignity, compassion, and kindness. We refuse to be scared by all the lies about what will be taught in schools. So on behalf of so many moms across California say no. Say no. Vote no. No on Prop 8. It's unfair and wrong. Vote no on Proposition 8. Thank you.

Each repeated line, and every three or four lines a head shot of a different mother appears on the screen. The pictured mother narrates the three or four words, and the camera cuts to another mother finishing the sentence. This commercial is unique in the racial and ethnic diversity it represents. There are African American, Asian, White, and Latino mothers who comprise the commercial. All of the women are heterosexual mothers who raised or are raising their children in California (www.eqca.org).

The 'No on 8' version of *Moms* arranged the mothers in the commercial differently. In the original two white women, four African American women, three Latino, and five Asian women comprise the ad. In the No on 8 version only two African American women, one Latino mother, and two Asian mothers were left in the video. Added in their stead are two additional white women who did

not appear in the original rendering of the commercial. Watching the two commercials next to each other reveals the difference significantly. The commercial moves from each shot of a mother to another and then back to an original mother. In the original, the most commonly seen mothers are three African American mothers while in the edited-for-television commercial white women are the anchors of the commercial. They have more lines and subsequently are more visible throughout the commercial. This transformation re-centers the white subject from a clear attempt to center ‘others.’ As previously eluded to the questioning of centering white subjectivity is foundational to the study of whiteness.

The study of whiteness as it develops from its earliest academic assessment in field of communication via Nakayama and Krizek (1995) has attempted to understand more advanced articulations of racial privilege. Chidester (2008) argues that in whiteness studies emphasis should be placed on the presence of absence. In his study of the popular television show *Friends* he articulates that characters of color were noticeably absent. That the show is set in New York City, a metropolis of racial diversity, and filmed in Los Angeles, similarly diverse, while less than ten characters in the show are not white is a present absence. The absence of characters of color or even passing interactions with characters of color is remarkable. Chidester argues that it is the very absence of such characters that creates a marked absence that is readable as a mechanism for securing the power of whiteness, or what Chidester calls a “closed circle” (p. 160). In this respect then, the rhetorical choices of the editors of the *Moms*

commercial clearly participate in strategies of whiteness. While women of color are present, the emphasis and duration of their appearances is minimized in the edited version of the commercial.

The strategic rhetoric of whiteness can be found further entrenched in both *The Advocate*, a leading United States gay magazine, and in the media fall out surrounding the ‘No on 8’ campaign as the well as the fall out after election day. Finally, the discourse of litigation and case law adds further complication to the question of whiteness and new civil rights rhetoric.

The Advocate

Election night in California in 2008 was not skewed by early announcements of winners, bad weather, or other variables that are often blamed for untoward results of an election. Instead, voter turnout among gay and lesbians in San Francisco was at an all-time low, while voter turnout among social conservatives was at its height in San Francisco and across the state. Inaccurate exit polling suggested that African Americans and Latinos voted overwhelmingly for Proposition 8. This created an immediate scapegoat (Burke, 1945) wherein the ‘No on 8’ campaign and the gay and lesbian community in California could articulate blame external to their own efforts. The November 18th, 2008, edition of *The Advocate* was dedicated exclusively to discussing the No on 8 campaign and its pitfalls. Three of the features were articles discussing the campaign, race relations, and the black church. The final section consisted of “Open letters to President Elect Barack Obama.”

The first article, written by Jonathan Rauch, asks what “we can learn from Obama’s win.” Rauch is critical of the civil rights mindset he sees dominating gay and lesbian progressive movements. He explains that litigation for desegregation and other rights did little to change the cultural ideals of the American public. In short, while litigation enabled legal equalities, those legislative wins could not mandate cultural acceptance. Gays and lesbians who seek legal victories will face the same future as African Americans, one of continued social isolation but legal protection and recognition. In this sense, Rauch is disinterested in following the civil rights path but not before suggesting Barack Obama and other African Americans have a responsibility to help gay and lesbian marriage equality advocates. He argues that so long as gay and lesbian support can be used for the benefit of electing officials such as Barack Obama, then those politicians ought to treat those communities as more than just an “applause line” in their speeches.

Rauch’s arguments are relatively mild compared to the work of Michael Joseph Gross in the cover article *Pride and Prejudice*. Such a title might suggest an extension of self-critical caution on the heels of the racial backlash experienced just after Proposition 8 was decided at the polls. While Gross begins his article in such a way, his ultimate argument contributes to the spiraling civil rights analogies and rhetoric that characterized political discourse surrounding Proposition 8.

Gross begins his article with a narrative:

The night before Election Day, a black woman walked into the San

San Francisco headquarters of the No on Proposition 8 campaign. Someone had ripped down the No on 8 sign she'd posted in her yard and she wanted a replacement. She was old, limping, and carrying a cane. Walking up and down the stairs to this office was hard for her. I asked why coming to get the sign was worth the trouble, and she answered, "All of us are equal, and all of us have to fight to make sure the law says that."

He immediately turns to the results of the 2008 Presidential election and the devastation of gay marriage rights in California. Gross describes the evening as "whiplash." Significantly, he moves to a conversation of historical marriage laws. He reasons that if *Perez v. Sharp* and *Loving v. Virginia* had not been litigated it is possible that Barack Obama, the son of a white mother and African father, would not have been born. While the statement is not necessarily threatening, it has the texture that looks and feels as if it creates an obligation for Obama to support the expansion of marriage rights as the direct beneficiary of progressive marriage equality movements of the past.

Following his suggestion of Obama's obligation, Gross (2008) reminds his readers that African-Americans *could not* be at fault for the passage of Proposition 8. He so negates the question of African American voters that one might be prompted to be unconcerned about this segment of voters altogether. He writes, "African Americans represented just 10% of Californians voting, with numbers that small it would be impossible to blame this group of voters." Gross later suggests that the margin of defeat was 2.3% of the voting population and concludes that even in the event that all African American voters had opposed

Proposition 8 it would have still passed. The rhetorical move here appears to shift the blame away from African Americans as it became articulated directly after the November election. His argument seems to move away from blame and towards a question of how to move forward.

Gross (2008) turns to the cover of the magazine and its implications. The cover of *The Advocate* is a plain black background and asks: “Is gay the new black?” in large white lettering. The subtitle states in yellow: “The last great civil rights struggle.” He argues that gay is the new black because gays and lesbians “are the most socially acceptable target for the kinds of casual hatred that American society once approved for habitual use against black people” (p. 3). Gross cautions that the use of the civil rights movement analogy creates the responsibility for gay and lesbian activists to also interrogate the *differences* between the movements; he attempts, perhaps disingenuously, such an articulation.

Gross notes a foundational difference between levels of support and acceptance in families of African American youth and gay and lesbian youth. He writes,

Being gay begins with recognizing your difference from the people with whom you have your earliest, most intimate relationships.... We weren’t born into the kind of beloved community that the African-American church aspires to be. (para. 17)

The differential suggests a tougher experience for gay and lesbian youth, as their young life begins by recognizing difference in the relationships that mean the

most to a child. The shunning involved for many gay and lesbian young adults from their families differs substantially from the acceptance that African-American youth would experience from their families and/or churches. While it may be true that a gay or lesbian teen is at higher risk of being rejected by their family because of their homosexuality, Gross' analysis reads as if it is constructing a world for African-American children free of difficulty, rejection, or family complications. Further, his analysis assumes that few if any young children that are gay or lesbian are also Black. He creates a false dichotomy between possible early life experiences making a young Black gay or lesbian unrecognizable.

The other distinction that Gross seeks to articulate is in a legal context. Gross argues that while it is illegal to fire an employee on the basis of race, it remains legal in most states to fire someone because they are gay or lesbian. He acknowledges that it might be the case that many gays and lesbians can 'pass' more readily than many African Americans but explains that freedom means living without restraint, including a need to 'pass' as heterosexual to be successful. Gross' construction of difference here underscores his earlier tacit rejection of African American gay and lesbians that may or may not be able to pass as straight, or white. In his construction of the social and political realities of African-Americans discloses his whiteness. While there are legal protections against employment discrimination based on race, there remain many African Americans who experience racist discrimination today. He also rejects the still powerful role of passing that may remain part of daily life for some African-

Americans. His white subjectivity betrays him in relation to the level of scrutiny he mandates of those who seek to use a civil rights analogy towards the end of winning gay marriage.

Gross deals only superficially with the relevant differences between gay and lesbian movements for marriage equality and the CRM. Specifically, his analysis rejects a storied history of religious and sexual oppression and exploitation, initially in the slavery system, enduring through desegregation, and that continues to be relevant in political debates involving some African American communities. Specifically, the interrelationship between religion and sexuality that tends towards conservatism (Griffin, 2006; Pinn, 2003; Schwartz, 2003) provided much of the foundations of the civil rights movement. I will discuss these in turn here to explicate the ‘No on 8’ campaign strategies as well as the articulations of the civil rights movement in Gross’ article.

While the economic motivations for slavery were clear, free labor, the mechanism by which white slave owners could justify their behavior must be grounded in ideological content. Collins (2000) argues that slave owners used biblical interpretations to justify slavery, and generated sexualized stereotypes of Black men and women to justify their dehumanization. The denigration of the black body, then, was the prescription for ensuring the spiritual and material oppression of African slaves in the United States. The construction of racialized stereotypes of the Jezebel, the Mammy, and the Young Buck become a logical precondition for the dehumanization of slavery’s subjects. Indeed, both black women and men were constructed as dangerously oversexed or overly aggressive.

Because slave owners, for the most part, refused to instruct slaves in reading and writing their education in the Christian biblical tradition was primarily “oral/aural” (Douglas, 1996, p. 98). The implication of such an oral history of biblical traditions is that the stories and lessons of the Bible are handed down through generations based on cultural understandings instead of strict textual interpretations of these stories. Alternatively, some Black people’s rightful mistrust of White manipulation of Biblical texts also means that alternative interpretations of texts such as those that refer to sexuality are largely rejected in Black Churches. The interpretation “of certain texts will more likely reflect the homophobic understandings handed down in the Black oral tradition than the exegetical findings of biblical scholars” (Griffin, 2006, p. 98)

Finding White churches inhospitable to Black congregants, free Blacks developed black churches in places like Philadelphia and Savannah. As these churches received free Blacks after the Civil War, these material institutions helped free Blacks construct a culture that was as free from White control as possible. The organization of the Black Church according to sociologist E. Franklin Frazier, prompted the creation of other institutions for Blacks including: banks, schools, insurance companies, and other social support programs for the advancement of Black communities and culture.

Douglas (1999) argues that in order to gain respectability and in some cases to simply survive, many Black people adopted conservative sexual ideologies. In this direction, members of the Black Church underscored the importance of sacred rites, primarily marriage as a means to normative (read:

White) sexual mores. Griffin (2006) agrees asserting that the single most important rite utilized by hundreds of thousands of freed Africans was that of religious marriage. Having been barred from marriage during slavery compounds the emphasis on marriage as a sacred religious rite. Former slave Henry Bibb illustrates the importance of marriage, “There is no class of people in the United States who so highly appreciate the legality of marriage as those persons who have been held and treated as property” (Douglas, 1999, p. 66).

The significance of the Black Church extends well beyond theological conditioning. Black churches from across the country also provided the cultural and material support for the CRM. Pinn (2002) argues, “Black churches provided the foot soldiers for [the Civil Rights] battle and in this way made a claim for being a place of power both within in the Black community and as the Black community’s representative in White society” (p. 17). Operating, then, both for racial equality and the ambassador of African Americans to White society, the church and civil rights leaders encouraged normative and ‘respectable’ behaviors to achieve equality. These articulations were often interpreted as part of a broad middle class movement assuming economic privilege as a primary prerequisite to achieving the lifestyle. Given the historical relevance of marriage, sexual mores, and the Black church, Gross’ construction of the lives of African American and the ‘obligations’ to gay and lesbian marriage movements is not complete or productive in the direction generating partners in the movement.

Gross moves on to spend time in the cover article suggesting the civil rights movement as a *model* for the gay and lesbian marriage equality movement.

He writes that gay liberation movements have yet to find their “Martin Luther King Jr.”:

The dedication of movement organizers has brought us a long way, but we are now in desperate need of a willing leader with solid media sense, a palpable inner core, an ability to navigate the game of hardball politics, and the balls to step forward and be our public face. (p. 2)

Overlooking Gross’ sexed suggestion for movement leadership for a moment, Gross neglects the leadership troubles that the civil rights movement experienced. His ahistorical accounting of the civil rights movement ignores the shared responsibility of movement activities, the host of committees and organizations that supported the movement, as well as leadership struggles within the movement (Dyson, 2004; 2009).

Gross urges his readers to ‘come out’ and be seen; gays and lesbians present and represented in public discourse it is more effective than when in the abstract. His plea for visibility, though, is only a ‘type’ of visibility. He blames the media for distorting the image of the majority of the movement. He laments the focus on flamboyancy

News reports mostly showed the same types of images the media insists on using when covering gay pride parades. A marching band played show tunes -- “If My Friends Could See Me Now” -- and a drag queen screamed, “The problem with living in a bubble is that bubbles burst!” She was fierce, and I was moved, but I also wondered why she was the one on the news that night. (p. 2)

For Gross, then, from his critique of media coverage of pride parades, drag queens and the desire for a leader with “balls,” those he desires to come forward and be visible in the movement are those gay and lesbian individuals that can craft a more palatable media image.

Gross seeks a movement leader that is gay, but not too gay, with a “palpable inner core” but no outward signs of flamboyance. Ultimately he desires a gay movement with out queers, without the critical and performative tools that have made the movement a unique expression of queer identity. Further, Gross’ model of leadership asks gays and lesbians to be ostensibly straight; to perform identity such that their homosexuality does not offend anyone. This type of “good leadership” is an impossibility given the current constellation of gay and lesbian activism. Gross speaks of a seemingly homogenous movement invested in a universally agreed upon agenda. Even if Gross were to contextualize his hopes for a leader for the gay marriage movement, the possibility here is still complicated. There are divisions in gay and lesbian marriage movements related to priorities, strategy, and geography. A number of movement members maintain appeals to state governments as the ideal means of garnering their marriage rights, while others argue that such a strategy diminishes the demands the movements could collectively make to end the national Defense of Marriage Act. Much like the diversity of the movement itself, a national leader would be unable to “navigate the game of hardball politics” in each socially relevant issue to gay and lesbian rights. A national leader in this regard would misrepresent the upper

middle class white male interest of a movement that is already, as demonstrated by the fall out of Proposition 8, experiencing serious divisions.

Gross' appeal to a movement leader directly contrasted with personalities seen during pride parades seems also to imply that a national leader might be able to regulate the visibility of queer performances that fall outside of what Gross perceives to be culturally palatable. Taken further, given Gross' contempt for the performance of racism in the post Proposition 8 protests, a national leader might also discipline those that express racism. Such disciplining would, of course, ease some tensions that heated the political scene in California but only superficially. If Gross means to have national leadership to negotiate politics, to keep the most flamboyant members of the movement 'in-line', and to ensure that the public face of the gay and lesbian movement is palatable, this will likely be at the expense of dealing with difficult divisions that keep many gays and lesbians of color marginalized in movements. Gross simply seeks to maintain the status quo by putting a pretty face on it.

Gross' demand for visibility has a specific history for gay and lesbian activism, just as sure as sexual exploitation in African American histories. Gross' call for visibility is particularly depressing for gay and lesbian liberation movements because it appears to be a regression back to original movement strategies. Formally, Bernstein (2002) illustrates that the era of visibility for gay and lesbian activists occurred roughly between 1965-1977. The era of visibility was that of the Stonewall riot and the creation of the North American Conference of Homophile Organizations (NACHO) which was created to unify gay and

lesbian movements across the nation. Bernstein points out that this moment in gay and lesbian history was about articulating a gay identity, often at the expense of coalition building. Specifically, Epstein (1999) and Murray (1996) document the single-issue nature of this era of gay and lesbian movements. The exclusive focus on social organizing around a normative white gay identity marginalized gays and lesbians of color.

The difficulty of Gross' (2008) demand is compounded by his regulation of who and how this ideal leader should emerge. His criticism of flamboyant gay men and promotion of a normative gay male to fulfill this role underscores his ideological assumptions. The image he constructs, and the history he cites are of a past and present that is always already a white mainstream upper to middle class gay male movement. His careful tracing of difference, then, is a simple reification and extension of the original cooptation of civil rights movement imagery and rhetoric, except now with the façade of historical situatedness.

The Advocate and Gross' article in particular claim to temper the controversy over Proposition 8 in the service of turning a critical eye inward to understand the failures of the campaign. Gross' gesture towards to such an endeavor is revealed to be half-hearted and in many respects self-serving. The account of differences Gross provides is skewed with sympathy towards gay and lesbian as more disenfranchised than those of African Americans. The preferencing of experiences or the rank-ordering of oppression is fundamentally anti-intersectional. Gross' assessment of the campaign does not create the

requisite understanding of either movement, historically or otherwise, to articulate a mutual point of convergence to proceed in the interest of progress.

Media Coverage

Returning to the debate outlined in the introduction of this project, media coverage of the fallout over the vote on Proposition 8 is compelling. The first reports after election day suggested the majority of African Americans in the state of California voted ‘yes.’ While statistically true, they were part of a larger group of voters overdetermined by their religious affiliations. More nuanced readings of voting behavior on Proposition 8 concluded that the single dominating factor for voters on Proposition 8 was religious affiliation and church attendance (Decker, 2008; Chance, 2008; Brenton, 2008). The majority of these voters were, in fact, white.

Despite the statistical clarification, a public debate was already raging and capitalized on in the media in the appearances of Dan Savage, Wayne Benson, and Andrew Sullivan. While appearing on national television cable networks such as CNN, these cultural commentators—none of whom officially represent the ‘No on 8’ campaign—dramatize the consequences of a neglectful campaign. Their comments are illustrative of the tension between claiming a civil rights narrative and the material enactment of the principles of anti-racism.

The balance of the claims from Sullivan, Bensen, and Savage, all white and male, suggest that for African Americans progressive gay and lesbian rights advocacy should be a logical, foregone conclusion by virtue of their experiences of oppression. These suggestions of natural support reject an opportunity for

sustained criticism of either racism in predominately white gay and lesbian movements or of homophobia in some African American communities and the difficulty faced by those who populate both communities. On all accounts, the campaign over Proposition 8 exposed the historically situated antagonism.

Dan Savage appeared on CNN separately with D. L. Hughley and Anderson Cooper. Facing a nationwide audience with D. L. Hughley, an African American host, Savage was careful to concede that while the African American civil rights movement is historically distinct from gay and lesbian civil rights movements, the most important similarity is hate. He reasoned that if workers are fired from a job because they are gay *or* because they are black, they are still fired. This equivalency is intended to move away from the Civil Rights Movement analogy and move towards juridical discrimination. Sadly, Savage followed with an appearance on Anderson Cooper's show where he argued that the *Loving* decision that overturned bans on anti-miscegenation laws is "identical" to the question of Proposition 8. While his appearances on CNN complicated the potentialities opened by a discussion of race and the GLBT movement, not long after his television appearances he ended those discussions when he posted to his blog

I'm done pretending that the handful of racist gay white men out there—and they're out there, and I think they're scum—are a bigger problem for African Americans, gay and straight, than the huge numbers of homophobic African Americans are for gay Americans, whatever their color. (para. 3)

While Savage's comments here acknowledge, if only momentarily, a history of racism in the predominately white gay and lesbian rights movements, his intention is clear in relationship to villainizing African Americans for homophobia.

Savage's comments shift responsibility away from white gay and lesbian activists that in the 'No on 8 campaign' rejected the help and advice of African American activists in negotiating coalitions with people of color.

Savage's position should not be surprising considering his early comments about African American voters while writing for *The Atlantic* in September of 2008. He argued, "there is, alas, no ethnic community as homophobic in America as African-Americans" (Savage, 2008, para. 1). Even if we bracketed the accuracy of his claim, Savage's arguments here are complicated in so far as they leave little room to negotiate the coalitions necessary to overcome the homophobia he identifies in the African American community. His comments strategically remove the responsibility of white activists to interrogate their own prejudice and racism.

This strategy is foundational to the security of white racial privilege. As Nakayama and Krizek (1995) argue in their germinal article, whiteness maintains its power through its non-explicitness and deferment of racial responsibility. In essence, because white people are not 'with race' they are not responsible for the complications 'of race.' Carrillo Rowe (2008), in her analysis of coalition building in the academy, explores the neoliberal challenge to negotiating racial prejudice. She argues that neoliberalism's assault on history and racial formations erases analyses that could place white activists in an equation of oppression that is

both systemic and synchronic; neoliberal race politics ideologically understand racism as privatized and individualized. Racist hate crimes, for example, are typically attributed to moments of overwhelming rage, or hate; this treatment of the ‘moment’ of rage or hate overlooks systemic ideologies that encourage and entrench racism. In this way, sustained criticism of systems of oppression is avoided through individualization.

To understand Dan Savage’s approach to homophobia in African American communities is to understand neoliberal whiteness. His comments position racism in the gay community as particularized and specific to a “handful of gay white men.” However, his assessment of homophobia is more generous in its systemic presence in the “ethnic community of African Americans.” The ‘handful’ of racists in this case negates the need for white gays and lesbians to sustain a self-critical understanding of their participation in racism but demands of African American communities such a self-critical look at their homophobia.

Doane and Bonilla-Silva (2003) argue that neoliberal race politics not only reject systemic claims of racism but also blame those ‘with’ race for racial conversations. Savage argued that his critics were overly sensitive to criticisms of African American culture, demonstrating the Doane and Bonilla-Silva’s point precisely. He stated that a difference must be understood between blaming African Americans and calls for “energized engagement on the issue.” Though just one day later, Savage wrote:

There is a tsunami of data showing that African-Americans are more opposed to gay equality than any other ethnic group.... The younger

generation is not much better. Young Latinos are much less homophobic than young African-Americans. The *rampant homophobia in urban black culture* also cannot be denied. (para. 1)

He fulfills in his analysis of Proposition 8 all the requirements for neoliberal protections of white privilege. Even if one were to grant his arguments that homophobia in African American communities is troubling, his suggestion of wholesale homophobia of those communities is untenable and renders conversations about racism in gay and lesbian communities unnecessary. The closeting of racism in gay and lesbian movements is the price paid for addressing homophobia in African American communities—a classic demonstration of neoliberal whiteness.

Wayne Benson, a liberal columnist, perpetuated the conversation on November 12th, 2009. Benson writes:

Still, there is something particularly galling and repugnant about people who have felt the sting of discrimination, turn around and step on another minority. What happened at the ballot box feels like a personal betrayal and the hijacking of history.... For the black people who voted for Proposition 8, the civil rights movement was about emancipating black people - and no one else seems to matter. These solipsistic individuals and their prejudiced pastors appear to lack an ember of empathy and have turned freedom into a private fiefdom.

Benson's assumptions demonstrate a lack of understanding of the Civil Rights Movement as well as race relations in historical and contemporary

instantiations of gay and lesbian politics. His argument rejects a history of racism in gay and lesbian organizations, and the prioritizing of predominately white gay and lesbian agenda items in movements. While his statement suggests an understanding of systemic forms of oppression, it is a purposeful ignorance of relationships of power that marginalize African American gay and lesbian activists.

The emergence of contemporary gay and lesbian movements were rooted in the overrepresentation of white men. The Mattachine Society and others were primarily comprised of men with agendas that focused on predominately white gay male concerns (Viad, 1995). The development of subsequent lesbian organizations such as the Daughters of Bilitis served the interest of white middle to upper class lesbians. Even if we were to disregard the lack of people of all ethnic and racial backgrounds in these early organizations, their agendas reflected their racially homogenous organization as discussed previously.

Given the organizational whiteness, it should be of little surprise that the epistemological foundations of gay and lesbian activism and culture were also racially biased. The metaphorical ‘closet’ for the leaders of gay and lesbian movement backstopped arguments for gay and lesbian rights. Queer Nation utilized militant outings of national congressional representatives and community leaders in an effort to increase the visibility of homosexuals. It is in this appeal to “the closet” and “coming out” that further entrenches differences between white gay and lesbian activists and African American activists, in particular. Ward (2008) argues that foundational constructions of “the closet” were imagined by a

gay white elite who could afford the luxury of choice between “coming out” or not. Further cementing their difference, Ward argues that any mainstream gay and lesbian organization is necessarily required to maintain a base of financial support. In this way, the support is consistently solicited from gay white middle to upper class elites. This does double damage, of course; Vaid (1995) argues that such a structure ignores the interests of diverse populations in movements in deference to the interests of donors.

By virtue of their ideological and material exclusion from mainstream white gay and lesbian movements gays and lesbians of color formed the National Coalition of Black Lesbians and Gays in 1978. After garnering little attention and fewer results in combating racism in national GLBT movements, this organization dissolved and its members either left political activism or joined other African American rights organizations to forward their interests (Bernstein, 2002). Bernstein argues that ACT UP, Queer Nation, and other ‘militant’ GLBT rights organizations unconsciously forced African Americans to choose between their race and their sexuality in terms of political activism. As a result there were early evacuations of queer rights organizations attributable to a lack of intersectional awareness of multiple oppressed identities.

These structural limitations and exclusions are clear in the response to Savage and Bensen by African American activists involved in the ‘No on 8’ campaign. Jasmyne A. Cannick in a mutual appearance with Bensen, articulated clearly that many African Americans are insulted by the equation of the black civil rights movement with the gay civil rights movement given their disparate

histories of material oppression as well as the general prominence of whiteness in gay and lesbian communities. Cannick highlights her concerns with the LGBT movement specifically in California, but also nationally,

Look, you cannot ask me to go to Oakland to talk to black people about gay issues when there is not investment in those communities. White gay men do not work in black communities, Prop 8 did not come to black neighborhoods and explain why we should vote. The gay civil rights movement always wants to equate itself to the civil rights movement but they really don't understand that movement or the history of that movement.... The problem is the language and how it's being framed to black people. Gay people need to understand that you cannot ask black people to separate the church and religion from the civil rights movement.

Cannick reports a largely supported argument that the 'No on 8' campaign worked little if at all to connect with voters of color. Two extended examples are appropriate here to demonstrate the arrogance and ignorance with which the 'No on 8' campaign approached questions race and racialized voting blocks.

Though the campaign was only approximately 3 months long, it was not until three weeks before the election that a campaign office was opened in East Los Angeles. The office that did open was not run or even in collaboration with the official campaign (McDonald, 2008). Instead it was opened by the cash-strapped Honor PAC, a gay and lesbian organization whose purpose it is to provide community for Latina/o American gays and lesbians in the Los Angeles area. The chair of Honor PAC, Luis Lopez, complained that the campaign knew

they needed African American and Latino voters but were unwilling to adapt campaign messages that would appeal to those voters. Lopez and others were told specifically and through the actions (or lack thereof) in their communities on behalf of ‘No on 8,’ that their votes were not priorities (McDonald, 2008).

Jefferey King, a prominent gay African American activist in Los Angeles, reported to *LA Weekly* that he offered his experience and skills in social organizing to the ‘No on 8’ campaign; instead of sending him to communities who were familiar with him where he previously organized, he was assigned to the phone bank to call voters. King also serves as the executive director of In The Meantime Men’s Group, a south L.A. service organization intended to provide and nurture community for gay black men. King and his organization advised the ‘No on 8’ campaign against using a civil rights analogy, instead encouraging them to use an open letter written by then Presidential candidate Barack Obama that expressed his opposition to the ballot measure. Instead of taking King’s advice, the ‘No on 8’ campaign, as reported by King, stopped working with him (McDonald, 2008).

The Jordan/Rustin Coalition (JRC) reported largely the same experience in regard to their desire to aid the ‘No on 8’ campaign. The neglect of this organization is particularly troubling given that the explicit purpose of the organization is to mobilize African American communities in the direction of agitating for marriage equality. The organization’s namesakes are Barbara Jordan and Bayard Rustin. Barbara Jordan was the first African American woman to be elected to the Texas legislature; she was also the first African American elected to

the United States Congress from a southern state. Her keynote address to the Democratic National Convention in 1976 is ranked fifth in the top 100 speeches of the 20th century by American Rhetoric. She was the first African American to speak as the keynote at any national political convention. While Barbara Jordan never disclosed her homosexuality while alive, her life-long partner was listed in her obituary (jrcla.org).

Bayard Rustin embodies the intersection of sexuality and race as it reappears in the question of Proposition 8. In his role as advisor to Martin Luther King, Jr., Rustin was the lead organizer of the 1963 March on Washington. Rustin was a life-long advocate of economic justice, class, and non-violent resistance. He was eventually removed from the leadership of the Civil Rights Movement when Martin Luther King Jr. was pressured to distance himself from Rustin or risk exposure of a manufactured story of an intimate relationship between the two leaders. Rustin moved on to continue his work for economic justice across the globe before he eventually passed away in 1987.

The JRC was established after Proposition 22 was passed in 2000. Proposition 22, as discussed in the introduction of this research, was a state version of the Defense of Marriage Act that defines marriage as a unification of one man and one woman. The leaders of the JRC reported frustration with mainstream gay and lesbian activism and the apparent disinterest in African American communities. That frustration was continued in the campaign against Proposition 8. Leaders of the JRC argue that they were not consulted directly by the ‘No on 8’ campaign until the beginning of October, just after Barack Obama

secured the Democratic Party's nomination for the Presidency (jrcla.org).

Assuming Obama would bring African Americans to the polls in numbers not likely seen before, the campaign contacted the JRC for advice and organizing.

After being consulted, the JRC crafted two campaign commercials to be used for 'No on 8' that specifically addressed the question of family and freedom specifically for African-American audiences. These commercials were never used or aired by the formal campaign leaders, and the JRC was asked not to pay for airtime themselves. While the ads use the same rhetoric and style of the ads already reviewed here and other 'No on 8' ads, the ads featured exclusively African American women. 'We vote No on 8' is the first of two spots commissioned and shows seven different African American women who describe themselves the audience as "your neighbor, sister, aunt, mother, grandbaby, cousin, lawyer, insurance agent, republican, democrat, independent, DJ, student, and friend." They urge the audience to vote 'No on 8' in the same terms as previous commercials: "no matter how you feel about marriage, eliminating rights is wrong," and "Prop 8 is unfair and wrong."

The second commercial '3 Generations' featured a grandmother, daughter, and two granddaughters discussing their views of discrimination. This ad is compelling as it begins with the grandmother marking her first hand experience growing up in the Jim Crow south. Her daughter and two granddaughters enter the screen. The daughter argues that she has raised her children to understand that discrimination is wrong no matter the context. The oldest granddaughter adds that she is a first time voter and will be voting 'No on 8' because "regardless of

how you feel about marriage, writing discrimination into the constitution is wrong.” While ideologically and rhetorically consistent with other campaign commercials, it is curious that these two ads were rejected. In fact, ‘3 Generations’ is in the same vein as ‘Discrimination’, the ad narrated by Samuel L. Jackson. The only difference appears to be the featuring of bodies, specifically black women’s bodies. This ‘trouble’ with women’s bodies is also evident in the *Moms* commercial analyzed previously.

Revealing their gesture towards coalitional work with the JRC as disingenuous, the ‘No on 8’ leadership disengaged, refusing to air the commercials and suggesting instead that volunteers canvass African American communities with door knob hangers and robocalls⁵ that encouraged voters to vote no on Proposition 8. These forms of campaigning are an extremely impersonal and relieve the campaign of the burden of face-to-face time with voters (Miller, 2009). In the context of ‘No on 8,’ however, a lack of face time signaled a lack of investment in communities of color. Subsequently it is surprising to expect no less than unpredictable results and skewed voting patterns.

This lack of interest extended well beyond communities of African American voters. The ‘No on 8’ campaign also ignored Latina and Latinos, Asian American communities, and Pacific Islanders. While it is not the case, as a statistical or ethical claim, that African Americans were responsible for the

⁵ Robocalls are the work of computerized algorithms that configure all possible telephone number combinations in a specified area code. The numbers are dialed, and upon being answered a recorded message is played (Miller, 2009). This variety of campaigning is impersonal but can increase the number of voters contacted by the campaign.

passage of Proposition 8, it is difficult not to wonder if the campaign had spent more time in communities of color, that the proposition could have been defeated. While print ads were released and translated into a host of languages, the ads themselves were never altered in culturally meaningful ways. One week before the election, the ‘No on 8’ campaign released its first and only ad that was culturally targeted to Spanish speaking voters. Featured in the ad were the leading Latino and Latina actors of the television show *Ugly Betty*. They communicated the same rhetoric as the other commercials funded by the ‘No on 8’ campaign—that regardless of their position on marriage, discrimination is wrong.

All of this, however, could not have been enough to overwhelm the attacks of the conservative right in regard to negotiating coalitions with communities of color. After the October 6th filing with the Secretary of State’s office ProtectMarriage reported to popular media outlets that the ‘No on 8’ campaign reported paying the chair of the NAACP of Los Angeles, Alice Huffman, \$250,000 for “consulting services.” These services coincided directly with the release of a statement from her office that the NAACP supported marriage equality. This statement is critical for two reasons: First, the NAACP has never supported marriage equality; second, the statement could not be supported institutionally.

First, the NAACP has never supported marriage equality. While the state office in California opposed Proposition 8, the NAACP officers were purposeful in their silence on the politics of marriage equality (Sewer, 2009). Former

California NAACP President Jason Bartlett reports that gay marriage has always been a lightning rod issue in the organization, an issue that most members would prefer to avoid in the interest of unity. This preference postpones recognition of African-American gay and lesbian members that may be invested in the right to marriage. Additionally, the California State board was not supported by the national organization in its stance against Proposition 8. Major funders of the NAACP pulled out of fundraising events after the release of the state organizations stance on Proposition 8. Those funders suggested they could not longer support the organization based on NAACP support for gay marriage (Sewer, 2009).

ProtectMarriage accused Huffman of receiving payment for her participation in the ‘No on 8’ campaign. Her image, along with a brief vita, appeared on several mailers that circulated Los Angeles as well as some parts of San Francisco and San Diego. Conservatives and other NAACP members argued that she was unlawfully using her position as President of the Los Angeles NAACP to suggest that the NAACP as an organization opposed Proposition 8. Further damaging her position in this confrontation was evidence that she neglected to follow the procedural rules for issuing an official position statement. A vote of the executive committee must be taken in order for the *organization* to officially support or oppose legislation or issues.

While no official investigation was held of Huffman, the damage was already done. Leaders in the African American community, both members of the NAACP and not, were mobilized to articulate public support of Proposition 8 in

response to Huffman's missteps. Many in the city of Los Angeles who were already suspicious of the agenda of the NAACP grew more skeptical of 'No on 8's interest in their communities. Trina Williams, the chapter President of NAACP Inglewood, released the following statement, "Alice Huffman has used her position without support of the vast majority of African American people and interfaith leaders in our communities in Los Angeles or California. It is very disappointing and misleading to say that she is representing the African American community or the NAACP, which is and has always been passionately in support of traditional marriage and traditional families" (Sewer, 2009).

The difficulties faced in their work with both the JRC and the NAACP reflects an unwillingness to understand and organize coalitions with a critical understanding of histories that skew contemporary relationships. The intersection here is racial, class-based, and religious. The history of racialized, classed, and gendered relationships in and among black women and men is compelling both because the marriage equality movement neglected to face issues surrounding those reflected in Trina William's statement above concerning "traditional families" and because of the overdetermining significance of religious ideologies in the votes cast for Proposition 8. Taking up religion, family, and class historically will aid in explanations not only of votes supporting Proposition 8, but will also illustrate the historical conditions that must be faced in order to create the coalitions necessary for success in the marriage equality movement.

I discussed previously the role the black church played in providing foundation support for the mainstream civil rights movement in the 1950s. While

religious ideals were central to the civil rights movement, the stratification of class introduced new movements interested in more aggressive approaches to equality. Some working class African Americans, dissatisfied with the demands of the mainstream CRM, organized and put into action an alternative agenda focused on direct political action to alleviate poverty, self-empowerment, and self-determination for African-Americans. The Black Power movement emerges in exasperation of a “300 year-long struggle with oppression in this country” with no end in sight (Pin, 2002, p. 19). Working class African Americans watched as their church leaders grow more and more wealthy while experiencing increasingly levels of poverty. The Black Power movement offered working class Blacks a means to work towards political ends that affected their lives more directly.

The Black Panthers, headed by Bobby Seale and Huey P. Newton and the Nation of Islam and made mainstream through the outspoken support of Malcolm X, are representative of an undercurrent of sentiment that opposed the actions and the non-violent commitments of the mainstream CRM headed by Martin Luther King, Jr. While Dr. King was interested in a multiplicity of social justice issues including poverty reduction and opposition to the war in Vietnam, his preferred form of governmental and cultural assimilation was insufficient for many.⁶ My intention here is not to suggest that all poor Blacks involved themselves with the

⁶ I seek here not to suggest that King’s activism can only be characterized as assimilationist. Indeed, very much of the work done by King was radical—his agitation for economic justice and his stance against the Vietnam War were radical advocacies (Dyson, 2004; 2008). In the context here, the dichotomy drawn between Malcolm X and King were fueled by the distinction between radicalism and assimilationist strategies.

Black Power movement, or that all middle class Blacks identified more readily with Dr. King. There are, however, observable relationships along these demographic associations.

The release of the Moynihan Report in 1965 did nothing to help the class divisions already exposed by the CRM. Moynihan argued that the breakdown of Black families occurred at a confluence of “poverty and antisocial behavior.” Moynihan specifically targeted Black women as a force of emasculation of Black men. He reasoned that Black women, accustomed to relying on themselves and other family member to raise children, proceed independently with their lives instead of allowing men to perform their masculine ‘duties’ as providers (Douglas, 1996). This articulation of the breakdown of the Black family is complicated for a variety of reasons; primarily, this report presupposes and enforces a predominately White middle-upper class constellation of the nuclear family. Further, and most relevant here, it diverts conversations about Black poverty away from economic, cultural, and social institutions that oppress African American men and women. Little sustained acknowledgement of racism as foundational to many of the social problems facing the Black community is a serious and hardly accidental oversight. The dire circumstances painted by Moynihan including high incarceration rates for Black men, few employment opportunities for Black women outside of hard domestic labor, suggest an inescapably depressed condition for African-American families (Douglas, 1996). The claim of inevitability or immobility in the face of depression ultimately

pathologizes Black female independence and victimizes Black masculinity, reinscribing gendered hierarchies.

Cultural reactions to the Moynihan report were unsurprisingly racialized, sexualized, and gendered. For many, the Moynihan report confirmed racialized and sexualized stereotypes of Black men and women reminiscent of the Jezebel and the Violent Buck. For those in the Black community, the Moynihan report was an assault on the black family, black sexuality, and black masculinity. I will address these reactions in turn.

The Moynihan report rehashed stereotypes of Black men and women influencing the greater mainstreaming of old stereotypes, revised for contemporary consumption. The evolution of stereotypes of Black women and men contribute to the continued oppression of both and the ‘troubles’ identified by Moynihan. Pin (2002) suggests that the Mammy and the Jezebel have developed into cultural condemnations of the Welfare Queen as it emerged in the 1976 campaign of Ronald Reagan. The Black welfare queen is characterized as a perpetual breeder seeking to collect government checks for no work. The focus on Black female reproduction is not unfamiliar. The stereotypes of both the Jezebel and the Welfare Queen attempt to intervene in the reproductive capacities of Black women.

In the same way Jezebels become Welfare Queens, Violent Bucks became Violent Black men (Pin, 2002). The O.J. Simpson trial exemplifies this transition most clearly. As Pin articulates, “O.J. Simpson successfully navigated the White world of glamour and power...The moment he was suspected of killing a White

woman, the White world of which he considered himself so much a part of turned against him” (p. 65). The June 27, 1994 cover of *Time* magazine showed a darkened image of Simpson which harkened to the images of Willie Horton, a Black rapist, exploited in the 1988 presidential race. The message of this cover was clear: The Simpson case is about race. Similarly situated to O.J. Simpson, Douglass (1996) documents at length a variety of popular culture representations of Black men that contribute to the violent Black man stereotype.

In an effort to deconstruct such creations, producer and director Spike Lee takes on the question of violent black masculinity in his films in the 1980s. In his films he critically positions and interrogates the story of violent black masculinity to articulate more nuanced and holistic conversations about Black men. In so doing, however, he reinforced sexualized and racialized stereotypes of Black women. bell hooks (1989) argues that Spike Lee’s Black female characters are “vacuous, empty. Filmmaker Spike Lee challenges and critiques notions of black male sexuality while presenting a very typical perspective on black female sexuality” (p. 83). The film *Boyz in the Hood* (1991) according to Douglas, “views [Black] mothers at once emasculating, overbearing, and irresponsible, while other Black women are sexually exploited and casually referenced as bitches and hoes” (p. 78).

The progression of these cultural stereotypes and institutional condemnations of the Black family from the Moynihan report influenced the manner in which Black churches and many in the Black community communicated about sexuality in particular. Pin (2002) suggests that as the

Moynihan report exploited the Black family to the degree that many Black middle class people increasingly accepted a male dominated nuclear family to maintain assimilationist politics. Douglass suggests that many arguments opposing homosexuality emanated from this concern for the preservation of the Black family. Asante (1988) asserts, “The rise of homosexuality in the African American male’s psyche is real complicated...It can be and must be tolerated until such time as our families are engaged in Afrocentric instruction for males....The time has come for us to redeem our manhood through planned Afrocentric action” (p. 57). He more precisely articulates that homosexuality is a form of “European decadence,” something endemic to White culture and outside of Black culture. Casting homosexuality as a white ‘problem’ is not an uncommon strategy. Marc Eprecht (1998) argues that queer Black studies scholars worked against the rejection of homosexuality as exclusively European even in contemporary discussions of sexuality in Africa (pp. 198-199). The implication, here, is that homosexuality is a social construction at best, and at worst a choice—in either case, it is condemned. Further, this line of thinking rejects the possibility of queer African Americans, as well as aschewing the possibility of coalition building as a perpetual threat to Black masculinity.

In this context, homosexuals become villains in the quest for traditional nuclear families. Douglas (1996) contends that these arguments opposing homosexuality combined with Black reactions to the Moynihan report likely influenced the resurgence of masculinity in the Black church. Many Black churches perceived the breakdown in Black families in part a consequence of the

demise of a sense of Black community. The church worked towards revising images of Christ and religion in an effort to appeal to Black masculinity. Douglas illustrates that the church attempted to modernize the image of a Jesus that ‘turns the other cheek’ to move away from “capitulation to white supremacy” (p. 109). Portraying Christianity as a ‘man’s’ religion included toning down religious services that were dominated by women and highly emotional. This transition often came at the expense of sensitivity towards homosexuality in the church. “At its worst, the Black church has acted with hostility towards homosexuals, blaming them for their own victimization. The paradox of this position escapes many Black congregations whose hypermasculinity oppresses a segment of the black population and forces many to reject loved ones” (p. 108).

This history undergirds the silence of Black discourse in relations to sexuality. Cornel West (1993) argues “Black institutions such as families, schools, and churches have refused to engage on a fundamental issue: black sexuality. Instead they run from it like the plague. And they obsessively condemn those places where black sexuality is flaunted: the streets, clubs, and the dance-halls” (p. 80). The long legacy of sexualized and racialized stereotyping surely influences the desire to resist speaking of sexuality in any other terms than purity. Douglas (1996) confirms this suggesting “for Blacks to discuss sexuality publically is like eating a watermelon in front of White people. All you do is confirm their images of you” (p. 68). Cultural fear of compounding sexualized stereotypes that perpetuate the oppression of Black men and women across the country prevents in many cases a public sexual discourse for Black communities.

This silence is not only just about homosexuality but any of its perceived social, cultural, and health consequences. The church has enacted a marginalization of a class of people that it would like disassociated with the black community-anyone that would participate in 'high-risk' sexual behavior. 'High risk', though, should not necessarily be interpreted as strictly medical; for example, the transmission of HIV or AIDS is virtually unheard of in lesbian sexual relationships, though these relationships are still condemned from the same theological position. The pathological manner in which black sexuality has traditionally been understood by whites become the same rhetorical frame used to discuss those that identify as homosexual.

Further, the question of HIV/AIDS is already raced even outside of the politics of sexuality. Hammonds (1997) argues that the origination stories of HIV as coming from Africa lend racist warrants to claims that African Americans have not but themselves to blame for higher rates of HIV/AIDS infections. The majority of research on sexual risk behavior, too, continues to focus on black bodies, reinforcing racialized sexual difference. In this way, the black church may not only be resistant to act on this health crisis in its own community because of the cultural association of HIV and homosexuality but also out of fear that doing so would increase white social control of African Americans. One Black preacher stated plainly "Christ healed the sick but also said, go and sin no more" (Douglas, 1996, p. 105).

Even in the face of increasing numbers of African Americans contracting and living with HIV and AIDS, black ministers remain, with some exceptions,

largely silent about prevention, while others who could help also let down the growing black community of HIV and AIDS patients. Pin (2002) argues that “white gay activists involved in groups like ACT UP ceased their rhetoric that AIDS was a human problem when their incomes allowed them protease inhibitors, other HIV drugs, and longer life unavailable to less-well-off black people in this country” (p. 177). While the accuracy of this statement is questionable given what we know of gay activism, it demonstrates intersectional tensions between white wealth and access and black poverty and suffering.

The demands of masculinity seem to mandate that when HIV/AIDS is identified in relation to a Black man, the man is rendered heterosexual. Not *just* heterosexual, but *very* heterosexual. Two examples illustrate the point here. When it became public that Magic Johnson had contracted HIV, he retired from his National Basketball Association (NBA) career as a point guard for the Los Angeles Lakers. He was not forced to retire, though upon his brief return for the 1992 NBA All-Star game, his teammates’ complaints pushed him back into retirement (Weinberg, 2001). Press surrounding the announcement of his positive status emphasized, by request of Johnson himself, his promiscuous lifestyle. At the expense of his wife, Johnson made painfully clear his lack of fidelity in their dating relationship. To ensure no confusion, Johnson also emphasized his ongoing and current active sex life with his wife despite his HIV status (Weinberg, 2001).

Similarly, Max Robinson, a news anchor for ABC, died in 1988 and was the first national news anchor to die of AIDS. Jesse Jackson, Robinson’s very close friend, defended Robinson’s heterosexuality with intense insistence. For

many, Jackson's impassioned defense of Robinson's heterosexuality and manhood raised questions concerning his degree of tolerance for homosexuality (Griffin, 2006). The instinct towards an over-the-top defense of their heterosexuality highlights the clear link between masculinity and heterosexuality. Though this link is not surprising it does work towards the end of marginalizing Black gay men from articulating masculinity particularly if they are HIV positive.

These heightened defenses of heterosexuality are contrasted interestingly against the positionality of Stewart McKinney a white Congressional representative who died in 1987 due to AIDS related complications. Congressional eulogizing upon his death, even after accusations of homosexuality, insisted upon his heterosexuality. More specifically, as Congressional representatives eulogized they were burdened by McKinney's request that his AIDS status be public. Brouwer demonstrates that "AIDS" was not mentioned for over an hour until Nancy Johnson spoke and marked explicitly McKinney's AIDS status. Just ten minutes later the eulogizing ended with little public discussion of AIDS. Brouwer generously surmises that a host of factors could have blunted the discussion of AIDS, including little time for the development of sophisticated statements, the lack of necessity to remind an audience that already knew, etc. Most relevant to our discussion here is the possibility and hesitancy to say AIDS because it would have, given the time period, been the equivalent to calling McKinney a homosexual. McKinney's heterosexuality was not vigorously defended, but his Congressional colleagues were also unwilling to name the possibility of homosexual desire. This is a

marked contrast to the response to black men who acquire HIV or AIDS, whether from transfusions or homosexual sex, whose heterosexuality is exploited for the purposes of rejecting the homosexual label. For McKinney, a white privileged man, his heterosexuality was protected both by the silence surrounding AIDS, and even in the Senate eulogies when AIDS and homosexuality were marked they were relegated the private sphere—made irrelevant to the question of his legacy.

The rhetorical positioning of Johnson and Robinson stands in stark contrast to McKinney. Johnson and Robinson are characterized as not just heterosexual, they have performed hyper-heteromascularity displacing any doubts of homosexuality, effeminacy, and immorality. Alternatively, McKinney, in part due to his whiteness and class privilege, is largely protected from formal recognition of homosexuality an issue relegated to the private sphere. It becomes clear, then, the trouble African American gays and lesbians experience in relationship to converging ideologies that create the conditions of oppression with more depth.

Silence in the church about HIV/AIDS and sexuality drew out clear material consequences for gays and lesbians. It also has psychological implications for those who participate in the Black church. The Black church's "don't ask don't tell" policy is difficult to navigate for gay and lesbian African Americans. Both ministers and congregants experience intense marginalization. Griffin (2006) documents the trouble that Leonard Patterson experienced at the Ebenezer Baptist Church in Atlanta, the church where Martin Luther King, Jr. and his father directed. Patterson was openly gay, arguing that those who are closeted

and commit to heterosexual marriage for show do not pastor in the truth of the Bible or God. His partner, Jim, attended church and helped with the youth group. He experienced what he suggests was passive rejection of his sexuality in the women of the church flirting with him, even in front of his partner. In other cases, he experienced significant harassment from the other pastors at the church. One might expect the harassment to be in the vein of suggesting a public heterosexual cover for his private homosexuality.

Instead, Patterson was approached by the other pastors at Ebenezer and was told that he should find a partner who is not White. If Patterson could take a Black partner then the church and others would be able to suggest, in public, that the partner is a cousin, or uncle. With a White partner, it is difficult to downplay the relationship. Griffin (2006) suggests that even when Black leaders are gay and in a position to help progress the ideologies of the church, the congregants prefer to see “the emperor fully clothed” (p. 124). Concomitant with congregants choosing *not* to see homosexuality in their leaders, choir members and other members of the church are viewed as heterosexual or asexual.

This ideological position was enacted during the debate in the 1990s concerning gays in the military; Colin Powell made clear very quickly that there was no comparison between allowing gay and lesbians people to serve and allowing African Americans to serve in the military. As chair of the US Military Joint Chiefs of Staff, Powell’s opinion could not be ignored. News media surrounding similarities drawn between excluding gays and lesbians and the

historical exclusion of African Americans from service were also quick to extract the differences between the two movements (Griffin, 2006).

My attention here illustrates in great detail the relationships that have emerged among religion, gender, class, and race to create the conditions under which some in the African American community have come to be socially conservative on the question of sexuality. The historical convergence of religious ideologies concerning sexuality, the cultural demonization of sexuality and family structure in African American communities, and heightened heteromascularity have created the conditions of some opposition to homosexuality generally, and gay marriage in particular, in these communities.

The historical embodiment of racism and whiteness in gay and lesbian movements and degrees of homophobia in some African American communities converged in the media coverage of the post-Proposition 8 protests. The emergence of a troubled public discourse at the intersection of these two strains did little more than deepen the divide between potential coalitional communities. After the passage of Proposition 8, court challenges surprised no one. The legal challenges to Proposition 8 were also riddled with precedent and rhetorical analogizing of gay marriage and the Civil Rights Movement.

Litigation

Judith Butler (1990) takes up Derrida's (1972) notion of citationality. Derrida's interest in citationality primarily concerned questions of iterability, or the reproduction of signatures, idioms, etc. Derrida argues that signatures are important because they impart a degree of subject stability, but as soon as they are

established they are immediately negated by the possibility of forgery and reproduction. This establishes an eventuality of an inauthentic copy or replication. Butler is interested in how such copying works in relationship to gender. For Butler the politics of citationality are relevant to the performance of gender and possibilities for resistance to hegemonic gender binaries. She argues that gender performativity is not substantially indifferent to the process of citing precedence in juridical contexts. For a judge to make a decision in a case she is mandated to refer to and place the issue at hand in the historical contexts of case law. This is precedence—a consideration of what legal decisions have come before and how to place the issue at hand in that context.

The politics of citationality in social movements appear to have little difference in logic with the gender ‘trouble’ Butler attempts to extricate. In the case of Proposition 8, the engagement of a litigation strategy necessarily requires an assessment of other civil rights cases. In this way, a comparison to historic civil rights case law is unavoidable. This troubles the ability of activists or movements to avoid at least a passing reference to the civil rights movement, and at most to articulate an impossible equivalency.

Butler’s theorizing is dually relevant to this study; first, in terms of better understanding gay marriage politics, and second as a tool to explicate coalitional potentials. Initially, a turn to considering litigation, and the politics of citation is relevant to the analogizing discussed at length in this project. I argue in this section that citation of Civil Rights litigation is inevitable given the emphasis of precedent in the decisions of juridical bodies. As gay marriage litigation develops

over time, it will build upon Civil Rights decisions and develop its own set of case law.

Perry v. Schwarzenegger (2010) was filed in November 2008 just after the voters in California passed Proposition 8. The lawyers filed the lawsuit on two grounds: equal protection and due process. They argued that the state has no compelling reason to violate the equal protection clause of the constitution that mandates the government treat each of its citizens the same. Further, the lawsuit claimed that the due process of gay and lesbian individuals was denied via Proposition 8. Due process protects citizens from unreasonable encroachments on their freedoms. Both equal protection and due process principles can be violated if the state can illustrate overwhelming interest in their denial.

Judge Walker, the presiding judge in California's 9th circuit, concluded after hearing expert testimony that the state had no interest in obstructing the rights of gays and lesbians from marrying under the law. While an injunction, at the time of this writing, is in place, an ultimate decision on the question of gay marriage in California will likely be appealed up to the Supreme Court of the United States. For now, though, the content of Judge Walker's decision as well as the testimony provided at the trial add more dimension to a conversation about the use of civil rights rhetoric and images in the campaign against Proposition 8.

The testimony of the plaintiffs (those challenging the legality of Proposition 8) centered around the stigma produced and underscored when the state rejects the recognition of legal status. To make such an appeal, the plaintiffs provided testimony that accounted for the social and cultural affects of

homophobia. Articulating such consequences become fertile ground for easy equivalencies and analogies between race and sexual orientation. For some who testify, there is a careful rhetorical positioning of *systems* of discrimination, ideology, and beliefs that are consistent across movements; on balance, however, the rhetoric participates in uninterrogated equivilances.

George Chauncey, Yale professor and author of *Gay New York: Gender, Urban Culture, and the Making of the Gay Male World, 1890-1940*, testified that arguments against desegregation and miscengination found in the 1940s and 1950s look eerily similar to arguments against gay marriage.

During the civil rights era, very many southern white Christians believed very deeply and sincerely that segregation was part of God's will for humankind. Reverend Jerry Falwell himself preached a sermon in 1958 criticizing the Supreme Court's *Brown v Board of Education* decision as going against God's will and warning, actually, that it could lead to interracial marriage, which was then sort of the ultimate sign of black and white equality.

I'm just struck by the degree to which religious arguments were mobilized in the 1950's to argue that -- against interracial marriage and integration as against God's will in a way that arguments have been mobilized in this campaign and the other -- many of the other campaigns I have described since Anita Bryant's argue that we need to do this because homosexuality itself or gay people or the recognition of gay people, the recognition of their equality, is against God's will. (pp. 228-229)

Chauncey, while crafting a statement of similarity, avoids a complete equivocation between race and sexual orientation by paying specific attention to systemic ideologies. He is not interested in stating that the gay marriage movement in California is positioned equivalently to the African American civil rights movement. To be certain, Chauncey's academic work is a careful extraction of differences among specific gay and lesbian moments of resistance.

The interest of the defense in the *Perry* case is to avoid the definition of gays and lesbians as a suspect classification in the eyes of the law. To be a suspect class confers on the state the responsibility to pay special attention to laws or, in this case, propositions that would intentionally limit, with prejudice, the rights of such a class. The lawyers for the state (the defense), then, are motivated to build a case for the political and economic power of gays and lesbians. In doing so, they rhetorically crafted the social positioning of gays and lesbians in the context of other minority groups, specifically African Americans and Jewish Americans. The lawyers question the disenfranchisement of gays and lesbians primarily on the politics of class.

Attorney Hutchinson argues that increased money from gay and lesbian activists point to a financial stability that was not found in African American communities before, or even until very recently. He questions the status of African Americans before and after the Civil Rights Act of 1964:

Q. Do you believe that gays and lesbians are better off now than African Americans were before or immediately after the signing of the Civil Right Act of 1964?

A. The term “better off” is the rub in your question , Mr. Thompson. So my argument would be that from an economic perspective and from a social perspective it is quite likely the case that gays and lesbians in California in 2010 are better off than many, perhaps even most African-Americans prior to the passage of civil rights legislation. (pp. 1824-1825)

Hutchinson is attempting to establish the socio-economic position of ‘the gay community’ as privileged enough to mitigate it as a suspect class. Hutchinson pushes his analysis further to suggest that advancements and increases in HIV/AIDS funding from 1984 to 2009 give evidence to his claim as well.

Q. [Mr. Thompson, attorney for the state] All right...Is HIV funding an important political priority for the gay and lesbian community?

A. [Gary Segura] It is, yes.

Q. [Mr. Thompson, attorney for the state] All right. And then turning to pages 12 and 13 of ...[the] Congressional Research Service report for Congress...it shows the level of funding, which started in 1982 at \$8 million, is well over 20 billion today. And isn't it true that this reflects a measure of success that the gay and lesbian community has had in having funds allocated to HIV? (p. 1819)

Even in the face of violence, in the form of hate crimes, the defense contends that a variety of groups are able to maintain social and political prominence.

Specifically, Thompson suggests that similarly to the Jewish population in the United States, hate crimes should not be a reason to treat gays and lesbians as a suspect class in the evaluation of prejudice in the law,

Q. [Mr. Thompson, attorney for the state] And notwithstanding the regrettable incidents of hate crimes against the Jewish community, the Jewish community is politically powerful. It has a meaningful degree of political power, correct? (p. 1824)

This approach serves a specific purpose as articulated previously in regards to avoid suspect classification. Hutchinson asks on several occasions for racial and ethnic comparisons to draw baselines of gay and lesbian social and economic power. A lengthy exchange occurs between Hutchinson and Gary Segura, professor of Chicana/o studies at Stanford University, concerning how the Proposition would eventually affect the content of classroom curriculum in state funded public and charter schools. Segura suggests that the content of courses would only marginally change to include education about gay marriage in appropriate classes. Hutchinson asks more specifically “so you concede that there must be education about gay and lesbian marriage if the state sanctions such relationships.” Meyer responds:

Well yes. Would you tolerate a teacher refusing to address interracial marriage as political or social reality? Would they be allowed to erase images of interracial couples from their books, if they were printed in the material? Would you allow a history teacher to refuse a conversation about *Loving* because they didn’t believe in interracial marriage? The answer is very clearly no. This can not be tolerated for gay marriage, should it be legalized. (p. 1526)

The witness, while exasperated after a long line of questions, succumbs to the racial/ethnically analogous logic of the campaign against Proposition 8. His citation of the *Loving* case is most useful here. The reference is a question specifically of case law that is both relevant in terms of marriage rights and in terms of socially disenfranchised groups (people of color disallowed to marry white people and vice versa). His analogous rhetoric is evidenced with case law that disapproves of such oppression. In so doing, gays and lesbians are read in history against a monumental civil rights win. The similarities are suggestive and pertinent though not sufficient to warrant such equivocation as suggested in preceding analysis.

The construction of gays and lesbians as a political and economic class seemingly impervious to the damage of cultural and social marginalization works against a grouping of gays and lesbians in a history of civil rights case law that would subject them to special consideration in conservative law making. Judge Walker, though, in his decision must reconstruct gays and lesbians as a suspect class, a classification shared with people of color, in order to mandate an overturning of Proposition 8. As such, he works through civil rights litigation to establish such a claim. Walker later sequences his arguments in the decision as they emerge in the campaign. His organization of arguments participates in a flawed understanding of racialized and gendered identities as they emerge in the case.

Judge Walker begins with a literature review of sorts. He lays the historical foundation of civil rights claims to marriage. He cites *Brown v. Board*

(1954), *Pace v. Alabama* (1883), *Perez v. Sharp* (1948), and *Loving v. Virginia* (1967) among others. While his citations here are not all specifically ‘civil rights movement’ litigation, they are consistent with my argument that a historical citation of the relationship between the state and communities of color is inevitable—it is simply how law is done. Walker, through his review of the relevant case law, argues that miscegenation laws were illegal because they unreasonably constrained the freedoms of people of color with no justifying overriding state interest. He concludes that similar reasoning applies on bans of gay marriage. Judge Walker takes his decision one step further and suggests that gays and lesbians, despite their economic freedom, in many ways face social and political suppression to greater degrees than communities of color.

Judge Walker guides his readers through the logic of his decision, beginning with the citation of previous case law established in the cases listed above. He then concludes that there is no credibility in comparisons between the treatment of people of color and gays and lesbians in the eyes of law (p. 53). This argument, though just Walker’s opinion, must be established so that he can extend Segura’s testimony that the socio-political position of gays and lesbians is *worse* than that of other minorities in the United States (p. 104). In this way, he concludes that laws that attempt to marginalize gays and lesbians should be evaluated with strict scrutiny—that gays and lesbians should be treated as a suspect class in the eyes of the law.

Judge Walker continues that the *nature* of the campaign was conducted with prejudice. In this way, Judge Walker puts Chauncey’s testimony, cited at

length previously, to work to explain the how the public debate surrounding Proposition 8 “mirrored” those arguments found in historic debates about overturning miscegenation laws. Walker also argues that historically, progressive movements toward redefinitions of marriage have centered around racial equality. Noting momentarily that the legal position of women as possessions in constellations of marriages historically has also progressed but with little attention, Walker moves on to talk about the exit polling and religious interventions in campaign (p. 102). Walker avoids all conversations about race related to voting patterns, focusing on the factor religion played. He accounts for arguments about religion by listing the evidence introduced during the trial in the form of public letters of condemnation from a number of religious denominations. Populating much of the list of religious statements are the varied denominations of the Black church, including the National Baptist Convention, African Methodist Episcopal Church, and the Church of God in Christ (p. 102). Leaving this conversation with little resolution, Walker suggests that the heavy involvement of churches, religious leaders, and the nature of Yes on 8 campaign ads, is a sufficient indicator that voters were persuaded by prejudice to vote for Proposition 8.

Finally, Judge Walker concludes, in the summation of his decision, that even a facile look at the history of litigation concerning the deprivation of freedoms for specific groups must remind us that separate can never be equal. While he does not directly quote the stanza from *Plessy*, his reference is clear (p. 116). Walker ultimately overturns Proposition 8 arguing that that it is not in the

states overriding interest to infringe on the equal protection and due process rights the constitution guarantees all citizens. This decision does not demand an evaluation of suspect class, as Walker does not suggest denying marriage to gays and lesbians is in the states interest, but he establishes in the arguments illustrated previously arguments that future judges could base their decisions on.

The testimony and the decision underscore the legal necessity of citing civil rights legislation. Butler's (1993) rendering of Derridean notions of citationality is interested in the liberatory potential of performativity. The citational performance of cultural ideologies is the making of cultural reality for Butler. In this way, individuals in their daily interactions or performances rely on historical standards of mores and ideologies to guide their behavior. The process of citationality is a legal precursor for making decisions in the court system in the United States and as such mandates that litigation in the direction of progressive marriage rights cite such litigation. The context to the decision and the testimony provided, then become relevant to a broader picture of how the gay and lesbian movement seeks equality.

Judge Walker, the testimony provided, and the 'No on 8' campaign itself rest much of their arguments on the historical social precedence of the Civil Rights Movement. While Judge Walker attempts to complete his account of Proposition 8 in objective, evaluative terms as one might expect from a judge, his logic unravels to display reliance on equivalencies via ideological content invested in the very terms of *Brown v. Board*, or *Loving v. Virginia*. The court

decisions, while cited as precedence, remain central to an argument for gay marriage.

In the selection and advocacy of particular readings of case law there is, as illustrated, some mandate for deciding in the preference precedence; however, this selection process seems specific and dependent given the case, judge, and the arguments articulated during testimony. These selections are significant and contribute substantially to a particular understanding of case law. A selection of some cases and not others is not an objective decision. All choices to “select” are also choices to “deflect” (Burke, 1966).

Without initiating an in-depth Burkeian analysis of Judge Walker’s decision, I will explore the choice of citations of the civil rights litigation as opposed to other gay marriage litigation available to Judge Walker. Burke (1966) argues that terministic screens work such that an actor commands attention in one direction, and in so doing consciously directs attention *away* from alternatives (p. 45). While the direction of attention can appear objective, Burke is insistent that actors are just as purposeful in the deflections as they are in the direction of attention. He writes, “the dramatistic view of language, in terms of ‘symbolic action,’ is exercised about the necessarily *suasive* nature of even the most unemotional scientific nomenclatures” (p. 45). Williams (1974) adds that once selection has occurred, the act itself negates a review of the selection process altogether.

Understanding the selective tradition, or for Burke selective attention and deflection, of Judge Walker is telling. While Judge Walker has a host of legal

decisions surrounding the question of gay marriage *specifically*, he neglects to construct his arguments in this direction. Specifically, Walker does not cite the host of litigation decided in Massachusetts that speaks to the conditions of both equal protection and due process. Further, Judge Walker would have certainly had the judicial grounding of the most recent court decision for gay marriage in Iowa, *Varnum v. Brien* (2008). Case law dating back to a Hawaii state Supreme Court case filed in 1991 is foundational to queer litigation for gay marriage beginning with *Baehr v. Miike* (1996) (now known as *Baehr v. Anderson* (1999); name changed on appeal). This history continues with wins in Alaska (*Brause v. Alaska*, 1995), Vermont (*Baker v. State of Vermont*, 1999), Massachusetts (*Goodridge v. Dept. of Public Health*, 2003), and California (*City and County of San Francisco v. State of California*, 2004; *Woo and Chung v. Lockyer*, 2004; *In re Marriage Cases*, 2008). With a history of litigation just shy of 20 years, Judge Walker's choice in citation emphasis the raced history of marriage is meaningful.

This citational practice reproduces the strategies of the No on 8 campaign that seeks to make equivalences, with little analysis of difference, not only the cultural experiences of African American communities and gay and lesbian communities but also their legal standing. Purposing the testimony of Chauncey and Segura to mark gays and lesbians as one of the most, if not *the* most, disenfranchised minority group works to position gays and lesbians as a suspect class similarly to communities of color.

I outlined previously two ways in which citationality would be useful for this study. The first was a means by which to help give texture to the litigation

and case law related to Proposition 8, which I have just demonstrated. The second way in which citationality is relevant to this project is Butler's rendering of citationality as the means by which subjects can perform identities. She writes

Performativity cannot be understood outside of a process of iterability, a regularized and constrained repetition of norms. And this repetition is not performed *by* a subject; this repetition is what enables a subject and constitutes the temporal condition for the subject. This iterability implies that 'performance' is not a singular 'act' or event, but a ritualized production, a ritual reiterated under and through constraint, under and through the force of prohibition and taboo, with the threat of ostracism and even death controlling and compelling the shape of the production, but not, I will insist, determining it fully in advance. (p. 95)

For Butler, identities, specifically sexed and gendered identities are not forgone natural expressions of biological certainties. Instead, Butler argues that subjects perform identities through citationality. That is, subjects, to express identities, *cite* previous performances of identities in their own performances. Like Derrida's iterability discussed above, the citations of performances are endless loops—that is they are never precisely stable and in a perpetual state of “undeterminedness.” It is in this undeterminedness that Butler finds some potential for progress towards changing traditional gender roles. That gender is performed and re-performed with largely consistent replication makes gender, sex, and sexuality “natural”—a forgone biological conclusion. But because performance is not stable, slight variations are meaningful. As variations are re-

performed they become part of a gendered landscape that can change overtime in the direction of greater freedom.

Butler's understanding of citationality in identity performance is relevant to this conversation insofar as it acknowledges the tentativeness of identity categories and can aid in the development of coalitional possibilities discussed at length in the proceeding chapter. Questioning the stability of the identity categories is central to intersectionality and queer theory, Butler provides a way here to acknowledge the constructedness of those identity categories while also searching for permeations or the pushing of boundaries of said categories.

Conclusion

I have reviewed, in this chapter, television advertisements, media coverage, and the court decision in relationship to the Proposition 8 campaign. These artifacts construct a snap shot of rhetorical strategies that converged to complicate the success of the gay marriage movement in California. These strategies reveal a number of foundational and important rhetorical themes: presence, whiteness, and intersectionality. I will review these themes related to the totality of the artifacts presented above.

Initially, the politics of presence emerges in several significant moments in the campaign. First, in the commercial ads produced by the 'No on 8' campaign and its allies, the dialectic of presence and absence runs throughout. *The Thorons* was missing a meaningful illustration of homosexuality altogether. The single photo of lesbians is visible for approximately two full seconds. In the ads *Discrimination*, *Divisive*, and *Backwards* the words "gay marriage" do not appear

in the script. *Discrimination* and *Divisive* only say that voters should reject Proposition 8. *Backwards* uses euphemisms such as “the California dream” to speak of gay marriage but never names the possibility itself.

The sound bite that found most airtime in commercials, and was repeated by every spokesperson for the campaign was, “No matter how you feel about marriage. It’s unfair and it’s wrong. Vote no on Proposition 8.” This rhetorically removes the question of marriage, homosexual marriage in particular, from the vote all together. Missing, then, from the campaign for gay marriage, was an honest conversation about *gay marriage*. This was particularly damning when the ‘Yes on 8’ campaign predicated their strategies on arguments to ‘protect children’ and religious objections to gay marriage.

Also missing from the ads are people of color. The ads that do feature African Americans were not paid for or aired on television in California markets. In fact, one of the few African American bodies that appeared in an aired commercial was that of Mildred Loving—the plaintiff in the historic *Loving v. Virginia* Supreme Court decision that overturned antimiscegenation laws. Two African American women were featured in the ad *Moms*, and while this is important to mark, the progress seems on balance negated by the white-washing of the commercial during editing. Finally, the ‘No on 8’ rejected the campaign commercial produced by the Jordan/Rustin Coalition, *4 Generations*. This commercial not only made central an African American family of four generations of women but also avoided the equivalencies of the racial oppression and homophobia.

The 'No on 8' campaign did air several of its commercials in a variety of languages as an attempt to reach Asian American, and Pacific Islander communities but did little to include their cultural experiences or images in their commercials. One of the few exceptions to this is *Discrimination* where Japanese Americans are shown being herded into internment camps. Hispanics are not present in the campaign except in the *Moms* ad wherein one of the mothers appears to be Hispanic and the ads from the cast of *Ugly Betty*. The No on 8 campaign appears to be comfortable featuring racial minorities only insofar as they are positioned as marginalized and oppressed, ripe for constructing arguments for gay and lesbian equality.

Also absent from the consideration of Proposition 8 is a sustained concern for the equivalencies made between the Civil Rights Movement and the movement for marriage equality in California. As demonstrated by the commercial ads and media interchanges after the vote, upper class white leaders in campaign ignored the voting blocks of those identities they were using as means to articulate their own marginality. In this way, then, it can be of little surprise that African American communities would be disinterested in participating in the campaign or voting against the ballot measure. Further, the backlash experienced by individuals and communities of color, particularly African Americans, reveals not just lack of respect but also a deep seeded racism. Jasmyne Cannick reports on her blog that in the demonstrations after the vote on Proposition 8 African Americans that were attempting to demonstrate against Proposition 8 with white allies were bombarded by racist reactions. Some

reported being called “niggers” while others were told to “watch themselves” because “the gays will get their revenge” a vague, if not ominous, threat of violence. Still others were told that “their people screwed gays” despite the fact that many gays and lesbians voted for President Barack Obama.

The foundational qualities of whiteness, too, emerge as the campaign makes choices about how it approaches the question of gay marriage equality. Broadly, the normative white leadership structure of the campaign is remarkable. The four executive leaders, Geoff Kors, Lorri Jean, Kate Kendal and Michael Fleming are white upper class activists who have long roots in gay lobbying both in California and in Washington, D.C. The first national field director, Marty Rouse was also an upper class gay man who conducted the early campaign with an expressed disinterest in working in or with communities of color (McDonald, 2009). Midway through the campaign a new national director was hired when monetary donations to the ‘Yes on 8’ campaign outpaced the donations to the ‘No on 8’ campaign by over a two to one ratio. Patrick Guerriero, an accomplished lobbyist for a variety of social action campaigns for gay and lesbian equality, replaced Rouse. Guerriero created and runs Gill Action, a nationally recognized and successful source of political organizing and lobbying. Gill Action with Guerriero raised millions of dollars for HIV/AIDS research in the late 1990s when money to AIDS research was not popular. His upper class status and campaign strategies are unmistakable.

It should be of little surprise with an executive board comprised of exclusively white upper class professionals, as well as most positions in the

campaign occupied with the same, that the over-arching strategies reflected such a leadership constellation. It is clear both from the interactions with the NAACP and the JRC that the leadership of the ‘No on 8’ campaign was seeking only superficial coalitions that put little if any constraints on the strategy established by the director and leadership. The experiences of the JRC demonstrate most clearly the campaign’s rejection of meaningful dialogue about race as specific advice from the JRC was ignored in relationship to avoiding equivalencies between the Civil Rights Movement and marriage equality. Further, the ‘No on 8’ campaign relied on underfunded and understaffed queer organizations to set up campaign offices in ‘their’ communities as was the case for the HONOR Pac in Los Angeles. This expectation epitomizes foundational assumptions of whiteness that places the responsibility of race in the hands of communities of color. In this way, the communities ‘No on 8’ did not campaign in are, in essence, responsible for the failure of the campaign. This is all too clear in the verbal and physical backlash to the vote.

Moments of intersectionality appear in every instance of communication, every strategic choice of the campaign, public statements, and the construction of Judge Walker’s arguments in *Perry v Schwarzenegger*. I addressed, at length, the intersection of religion, race, and sexuality. These intersections are central to this analysis. Sometimes explicit, though often not, the intersection of class underscores many of the choices made in the process of the campaign. Specifically, the opening of campaign offices in communities of color is not just

neglect of these communities and voters but is also a neglect of the economic access of those that attempt to fill the gap, such as the HONOR Pac.

The content of the commercials, as well, communicate a particular understanding of class. *The Thorons*, *Moms*, *Yes vs. No*, and *Backwards* features only individuals who can be read as securely middle class or working professional. *The Thorons*, in particular, are filmed in the family room of their home. The camera pans across their home where the audience can see their pristine kitchen, art on their walls, and a beautiful staircase with detailed woodwork, all factors that communicate middle to upper class wealth. The extras in *Backwards*, *Discrimination*, and *Divisive* are not only white, but dressed in professional clothes. When they do not appear as working professionals, they appear to be enjoying leisure time on the beach, another signifier of wealth. In this way, not only are the images of the campaign raced, they are also classed.

Ultimately, the campaign fails to speak to an audience that exists outside traditional white, middle to upper class, social position. Since *most* voters in California are not in this demographic, the result of the vote should be of little surprise. Further the lack of intervention in arguments about “saving children” from gays and lesbians compounding with a strong religious opposition converge to make a win for gay and lesbian marriage equality unlikely.

Two full years after the vote on Proposition 8, the conversation has shifted. There is little if any sustained conversations about race as they relate to the gay marriage movement in national sense. Most recently, the documentary 8: *A Mormon Proposition* (2010) was released and details the extent to which the

Mormon Church participated in the funding and support for Proposition 8. The documentary is an important artifact in understanding the force of religious backing for the proposition. This documentary, however, defers conversations about race *and* religion as they intersect in populations of color. The most current public discourse surrounding Proposition 8 reflects the content of the documentary that centers Mormonism as the central force in the election. Even if all of the facts of the documentary are true (I have no reason to believe they are not), the documentary shifted the conversation away from race nearly permanently. Finding any dialogue about race related to gay marriage is difficult but for researchers who are interested in the racialized outrages to the original vote.

Chapter 4

ALTERNATIVE FRAMEWORKS AND CONCLUSIONS

The right to marry is haunted. There is nothing neutral about the strategy to seek the right to marry.

Samuel Chambers, *Ghostly Rights*

I pitch this final chapter in a provisional register. I hesitate to provide argumentative frames that reject an understanding of material organizing in equal parts to my distaste for exploring acritical practice for on-the-ground activists.

While I do suggest an alternative mode of conceptualizing and forwarding arguments for gay marriage, these suggestions, both theoretical and practical, are invitations to conversation and debate. I am interested in questions that challenge our understanding of the material conditions of social movement activism as well as theoretical and intellectual exchanges found in the academy.⁷

Indeed, a lengthy analysis of the No on 8 campaign begs the question of what could have been done differently? How might gay marriage movements in the future avoid such a situation? What productive rhetorical choices are available to gay marriage movements that avoid the cleaving of communities?

Perhaps the most convenient response to the totality of these questions is to suggest that gay marriage advocates avoid analogizing the civil rights movement and gay marriage altogether. This would at minimum eliminate explicit animosity but defers responsibility for engaging in a self-criticism that

⁷ My intention is not to suggest that these goals or investments are mutually exclusive. Indeed, the offering of solutions here is meant to illustrate my responsibilities as an engaged scholar. For more on engaged scholarship see the 2011 special issue of *Communication and Critical/Cultural Studies*.

might enable gay marriage movements to understand the marginal spaces occupied by African American in the movement, as well as how African American communities might be more open to an understanding gay marriage as non-threatening to their cultural mores. Broader acceptance must be the goal of both communities—particularly for the sake of those who occupy the borders between them. While the analogies are not ideal, they do expose a clear division that is necessary to address for the future health of alternative coalitional possibilities; leaving them unscrutinized or avoided as a ‘best practices’ of social movements does little to progress the relationship.

As demonstrated in the preceding analysis, ineffectively analogizing the experiences of the civil rights movement with those of gay marriage compromised the votes of African Americans and other communities of color as well as neutral voters. The many complications, objections, and offenses the use of the Civil Rights analogy highlighted might suggest the message was never meant for African American audiences. Certainly if the intention was to secure the votes of African Americans and other communities of color, the message, upon being ineffective, would have been quickly altered for optimal political effect. Instead, the message remained unaltered and likely appealed mostly to white middle to upper class people (heterosexual and homosexual) who might donate money and certainly vote. In this way the analogy can be read as a means to garner votes from whites who might feel compelled to work with a movement that reflects a historical tradition to which they can tether their interests. As a function of

whiteness, this centers white subjectivity in a narrative accessible almost exclusively to people of color.

Robinson (1997) explicitly takes up this trouble, arguing that the Civil Rights Movement analogy that many queer communities put to use “segregates race and sexuality as objects of analytic and political attention,” “assumes the normative whiteness of the gay subject,” and functions as a means to access white liberal guilt in the interest of gay marriage. This functionally gives white communities a free pass on the question of race; supporting gay marriage is like having supported the civil rights movement. This strategy, according to Robinson, will have short-lived, if any, benefits for the gay community. She calculates that the civil rights analogy may serve to solidify the commitment of those already interested in the movement, and may, on occasion, convince neutral voters. For gay marriage advocates, this cannot be sufficient.

If the gay marriage movement wishes to succeed in California, it cannot maintain ignorance to strategies that offend or trouble substantial voting blocks. Those who are voting against gay marriage statutes are not those undecided voters that cannot readily find identification in the civil rights analogy. Joseph (2002) elaborates that

Analogy presupposes the autonomy of each incorporated community, thus erasing the prior history and current dynamics by which the community is situated...Such analogies work in concert with binary oppositions to produce and legitimate the hierarchical arrangement of the incorporated communities...The narrative of a historical break...based on binary

logics...is problematic insofar as it offers temporal supplement to spatial hierarchies. (p. xxvii)

The question of history is particularly important here. The analogy forwarded is problematic because it ignores the difference, both historical and contemporarily, between the two struggles. While some commonality or shared perspective of culture seems necessary for any degree of coalition building, differences remain important to coalitions as well. Ignoring the material conditions that African Americans and some gays and lesbians of color makes the analogy not only inefficient but also damaging to any possibility for negotiation.

The totality of this project has mapped the ways in which the analogy offered by the No on 8 campaign compromised African American voters while simultaneously mapping the potentials for coalitions. While Proposition 8 was unsuccessful, marriage movements predicated on such an analogy have and continue to win gay marriage rights. The analysis of case law in this project reflects this, as do specific rhetorical trajectories found in debates in Washington, D.C., Iowa, Massachusetts, and in many cities across the country battling anti-gay rights ordinances. I want to fuel a conversation that replaces a Civil Rights analogy but maintains a commitment to gay marriage as a civil right. The ultimate question, then, is how can the gay marriage movement maintain an emphasis on gay marriage with a nod to the strategies of the Civil Rights movement while avoiding the problematic analogizing? Barry Brummett's (2004) rendering of rhetorical homologies may offer a theoretical and practical answer.

Brummett (2004) argues that rhetorical homologies are linked situations that exceed analogizing by finding broad strains of logic that productively link two concepts, ideologies, or situations together. More specifically, homologies “exhibit correspondence or similarities in structure” and craft a “formal parallel that cuts across seemingly dissimilar discourses” (p. 87). Studying homologies bares for critics greater details of “how power is created, managed, or refused rhetorically in human affairs” (p. 3). The totality of Brummett’s book moves chapter by chapter to demonstrate a host of rhetorical homologies that are politically and theoretically significant.

The ground homologies offer the gay marriage debate is the opportunity to parallel the Civil Rights movement without crossing over a plane of difference. This strategy might name the Civil Rights movement as an exemplar of how a gay marriage movement might proceed without suggesting an analogous subject position. Instead of comparing the magnitude of oppression, the movement might compare the possibility for overcoming traditional forms of oppression and discrimination.

The study of homologies is not, by design, required to attend to intersectionality. The study performed in chapter 4 Brummett’s book on homology demonstrates this point. Brummett, here, is interested in homologies between *Get on the Bus* a Spike Lee film that follows a bus on its way to the Million Man March from Los Angeles, California and the rhetorical significance of chairs as they appear in popular culture and history. The politics of chairs is surprisingly significant. Consider the *chair* Rosa Parks refused to give up, the

chair that executes convicted felons, *chairs* of departments, etc. Chairs are markers of both power and disenfranchisement. In Brummett's analysis, however, intersectionality is absent. The bus in *Get on the Bus* is full of African American men traveling to the march and is meant to be reflexive on racial struggles that enable this literal and cultural mobility.

Brummett's extraction of a homology between text and real-life experience is effective and rhetorically powerful but is without a critical conversation concerning the exclusion of women in the movie. Brummett extracts the importance of seat location, emphasis, and occupation throughout the movie. One example to illustrate the point:

The original bus driver must be replaced by Rick, a Jew...[a passenger complains] "George, we can't roll to the Million Man March with a White boy at the wheel." [He] expresses in the sign of the driver's seat the kind of empowerment that The Chair marks on this bus. Rick the driver eventually abdicates his claim to empowered seating by telling George, "No way I'm getting my White ass back in that bus"; the "ass" would or would not find empowerment specifically in a Chair. (p. 119-120)

What is lost in this analysis is a thorough consideration of gender. While Brummett nods to the exclusion of women there is no analysis of the work done by women to enable the possibility for the *chairs* to be available on the bus, save for a passing reference to Rosa Parks. There is also no attention paid to the prominent foregrounding of men in Million *Man* March. This conversation reflects the necessity for a critical intersectional rhetoric that would extract

broader moments of similarity while also attending to important instances of difference and exclusion. In the absence of black women's bodies and politics it is easy to imagine a homology that is just as likely as an analogy to mitigate difference in the interest of similarities. Maintaining an intersectional basis for our rhetorical productions is central to ensuring the inclusions and consideration of all subjects invested in a political landscape.

Studying and crafting rhetorical homologies offers the gay marriage movement a way to maintain a political strategy that is successful while also attending to difference in a politically meaningful way. A civil rights conversation may still be central to the goals of the gay marriage movement; however, the movement should avoid the kind of analogizing the No on 8 campaign offered.

While I am politically and critically invested in the negotiation of universal marriage rights and have attempted to provide fuel for such a movement here, I am also aware of the complications such an agenda item causes in terms of divisions within the movement. I maintain the possibility for a self-reflexive gay marriage movement that can attend to difference and secure marriage rights for all. There are, however, divisions such an emphasis causes that deserve our attention.

Queer communities are somewhat isolated in their mobilization for gay marriage. They certainly find allies across cultural communities, but the issue of gay marriage is a narrowly focused movement goal and as such cannot likely garner the support of broad coalitions. Gays and lesbians of color may well be

invested in gay marriage to secure citizenship rights (Chávez, 2009; 2011). These movements work from rhetorical frames that are outside of the civil rights analogy. In many ways, these movements work from a human rights frame to articulate the need for state-recognized relationships for the purposes of securing citizenship for themselves, or their partners. In this way, a shift away from the civil rights analogy is warranted. What follows, then, is a discussion of possible rhetorical shifts that may aid gay marriage movements in their endeavors. In short, gay marriage movements should avoid using the Civil Right analogy and consider alternative framing to engage more productive coalitions.

Bennett (2006) takes up the question of coalition negotiation in same-sex marriage debates. Unfortunately, the most effective coalitions are the ones that *oppose* the right to gay marriage. Bennett details the forging of the coalition Alliance for Marriage (AFM). AFM negotiated a diverse coalition crossing racial, religious, and ethnic lines in opposition to gay marriage in 2001. The AFM was able to craft such a coalition through rhetorical strategies that emphasized the group's diversity. Bennett argues that movement leaders suggested that heterosexual marriage is "common sense...shared by the vast majority of American of every race, color and creed" (p. 142).

Bennett (2006) puts to use Young's discussion of "seriality" previously reviewed in this project. Young establishes seriality as an alternative to traditional identity politics, though she does not wholesale reject the idea of identity politics. Seriality, then, is the formation of temporary participation in collective action that does not demand an "all-encompassing ideological stance"

(p. 143). Individuals need not feel or give in to identification to forge alliances with others but simply must experience a “practico-inert” or the socio-cultural conditions the must all cope with. In the case of AFM, marriage functions as the practico-inert in which all those affected must respond.

Such a practico-inert should be of little surprise given the foundational cultural importance of marriage as a social institution (Bennett, 2006). Indeed, *everyone* is in seriality to marriage. The question then, is how can gay and lesbian activists rhetorically position their advocacy in such a way to garner more social approval. Analogizing the civil rights movement is, in coalitions like AMF, a potentiality already foreclosed. Bennett illustrates that in response to civil rights claims of queer activists the AMF cites token rejections of gay rights from civil rights leaders. Further, the AMF, and coalitions like it, set their sites on the family. They argue that gay marriage will add to the further derogation of the American family and children in particular.

Children, family, and marriage all constitute a practico-inert that hails passive coalitions based on outdated traditional ideologies that no longer reflect the material experiences of many. This all begs the question of how gay marriage advocates can rhetorically craft a practico-inert that functions in a countervailing direction. Of course, if there were a clear answer to this question its likely marriage would be a universal right. The right to marriage has been so persistently analogized to the civil rights movement, it is difficult to imagine a rhetoric divorced from civil rights such a framing. The effectiveness of the Civil Rights Movement as a form of social protest and as a guarantor of crucial rights

further complicates a rhetorical trajectory that does not integrate questions of civil rights.

The possibility for a series on the question of gay marriage is difficult to cast in current political constellations. While the gay rights movement has a history of racial marginalization, the work of Chávez (2011) becomes especially relevant here. Her analysis of two Tucson-based organizations, the first Wingspan, a GLBT community center, and the second *Coalición de Derechos Humanos*, a migrant rights organization, illustrates a moment of series particularly useful here. Recognizing their mutual marginalization from cultural dialogues and cultural demonization, the organizations have worked together for several years. Their coalition works so that both queers and migrants, as well as queer migrants, have mutual support against legislation that might oppress them all. In the rhetorical formations analyzed by Chávez, there is remarkable similarities drawn between the two groups but there is no analogizing. Drawing parallels related to a shared experience of oppression sufficiently lays the groundwork for their coalition.

Chávez (2011) details the internal meaning-making the movements labor to craft before making public “on the streets rhetoric” (p. 13). This important *negotiation* of coalitions is imperative—a step the No on 8 campaign never took. There was no collaboration, no working through how rhetorical productions might be carefully crafted, and certainly no interest in agenda priorities. Had the No on 8 campaign done the requisite work to negotiate a coalition they may have found

partners in the interest of social justice. Chávez demonstrates the possibilities of series, though she does not label them as such, related to gay marriage.

Other theoretical renderings may aid in the discovery of rhetorical trajectories available to gay and lesbian activists that might push back against the success of conservative opposition. Casting the right to marry in the rhetoric of intimacy and commitment may provide the grounds by which gays and lesbians might make constructive, instead of defensive, arguments. Shumway (2004) argues that marriage is cast in three dominant narratives: marriage as tradition, marriage as romance, and marriage as intimacy. Traditionalist discourse is seen in contemporary debates where gay marriage advocates find themselves always already on the defense against conservative arguments. These arguments suggest an imagined history of marriage as a strictly religious institution for the purpose of reproduction. While the question for reproduction was a primary concern of marriage, this was for the purpose of passing on wealth. Early marriage until the 1800s was primarily a means to exchange property among families and ensure the perpetuation of those families (Shumway, p. 75).

The narrative of romance is born in the Middle Ages as merchant classes find more and more wealth and the capitalist formations of marriage become less important. Access to pulp novels and high literature prompt the movement toward a romance narrative. This narrative encourages the passions of young men and women falling in love and marrying. The narrative also assumes that those who do not experience the passions of overwhelming love are failures (Shumway, 2004, p. 76).

Finally, the intimacy narrative, where Shumway (2004) finds ground for gay marriage activists, is foundationally aware of the decreasing social function of marriage and the increasing emphasis on equality in relationships. The intimacy narrative takes to task romantic conceptions of marriage that focus on passion, not commitment. Commitment must not necessarily mean marriage but a commitment to relationships after passions have subsided. Commitment for Shumway must be the kind of intimacy that stays the course in a relationship—a commitment to work on the relationship. Intimacy, then, is commitment to work on *any* relationship. In this way, Shumway argues that gay and lesbian relationships are the epitome of intimacy because they require commitment in the face of cultural rejection.

Purposing this rhetoric for the right to marry is not evidenced in the Proposition 8 debate. The artifacts in this study do not detail the substance of gay and lesbian relationships. Indeed, the data in this project reveals a decidedly defensive position that platforms demands for equality without a rhetorical trajectory that tells the story of gay and lesbian relationships. Most strikingly, perhaps, the dominant relationship narrative in the No on 8 campaign are those of heterosexuals. State and national campaigns interested in advancing the right to marry must resist the urge to negate gay and lesbian desire and commitment. In order to counter traditionalist narratives of reproduction in marriage, gay marriage proponents must underscore the intimacy narrative; gay and lesbian stories of love and commitment, relational struggles and resolutions, and a desire to participate in public affirmations of their relationships must be center stage.

Embracing the intimacy narrative would publically mark gay and lesbian desire, a visualization that many in mainstream gay marriage movements have explicitly avoided. They worry that the exposure of queer intimacy, given long standing stereotypes about hypersexuality among gay men reviewed in the second chapter of this project, would work against the ultimate goals of the movement. There is little doubt that such a characterization might cause some public problematics; however, Edelman (2004) suggests the embracement of these images as the alternative.

In combination with the featuring of gay and lesbian relationships and desire, gay marriage movement must begin to cope with their child problem. I am not the first to suggest that movements for gay marriage collectively face the practico-inert of the child (Edelman, 2000; 2004; Herman, 1997; Jacobs, 1993; Kramer, 1997; Smith, 2000; Smith & Windes, 1997; 2000; Sullivan, 2007). Herman (1997) articulates clearly the foundational history of child tropes associated with broad debates over gay rights, as well as specifically articulated in gay marriage. Edelman (2004) explains that the figure of the innocent child in political discourses serves the ideological ends of a futurism that perpetuates traditionally conservative notions of family and marriage, most specifically “reproductive futurism” (p. 28).

Concern for the figural child constructs a debate in which negating is culturally unpalatable. The trope is crafted such that rejecting the concern for children and future generations is unconscionable. The child was a particularly compelling trope in support of Proposition 8. Exemplary is the Yes on 8’s

Marriage: It's Simple ad which features a 2 year-old blond girl who is staged against a purple backdrop with a Barbie doll and Ken doll dressed in wedding attire. She plays with the dolls as one might expect of a young child. She blows kisses to and plays pick-a-boo with the camera, dances with the dolls, and hugs them. The final image is of Ken and Barbie sitting next to each other. The text in the background, the only text in the commercial, states "Marriage. It's Simple." The music is whimsical and childlike, played on the xylophone.

With only three words, the commercial communicates a plethora of ideological meanings that neatly fit the futurism Edelman (2004) is concerned with. Schiappa (2009) argues that this commercial in particular trumped up public concern over the influence of gay marriage on children in the same manner that the Lyndon Johnson *Daisy* ad in 1964 scared many voters in relationship to the deployment of nuclear weapons.⁸ The sentimentalism in both ads is an emotionally powerful statement that pleads with the audience to act in the interest of future children specifically and future generations broadly. Gay and lesbian response to the figurative has frequently been defensive instead of constructive.

⁸ *Daisy* featured a young girl innocently plucking a daisy's petals while attempting to count. Her innocence is marked particularly by her inability to count sequentially—she skips the number 5 and says the number 7 twice in a row. Just as she reaches the number ten, a loud male voice begins a count down; during which the camera zooms in to the eye of the young girl where the audience witnesses the explosion of a nuclear weapon, mushroom cloud included. *Daisy* has slightly more text than the *Marriage* ad:

These are the stakes: to make a world in which all of God's children can live or to go into the dark. We must either love each other or we must die. Vote for President Johnson on November 3rd; the stakes are too high for you to stay home.

Edelman argues that the compulsion to retreat from the child in public debates over gay rights fuels cultural fears.

Edelman (2000, 2004) argues that constructing a material political opposition to this rhetoric is problematic as it supposes that a static future of equality is possible or desirable. He problematizes such a desire given its necessary reliance on the same futuristic calculation, such as the child trope, as well as a reliance on a symbolic order which Edelman suggests can never function outside of ideology. Edelman suggests we:

fuck the social order and the Child in whose name we're collectively terrorized; fuck Annie...fuck the poor, innocent kid on the Net; fuck Laws both with capital 'l's and with small; fuck the whole network of Symbolic relations and the future that serves as its prop. (p. 29)

The sort of 'fucking' Edelman suggests is as figurative as the story of the innocent Child. The children are always only a historical symbol and citation of tradition and ideology. Edelman, then, understands the Child as a story that can be rejected and ideologically countered. Gay and lesbian activists should "reject the Ponz[i] scheme of reproductive futurism" (p. 3). In a theoretical play, this alternative is compelling. For material activists, interested intrinsically in results or the goal of marriage equality, this alternative is unintelligible to real politics. While I agree intellectually and critically with Edelman in terms of the trouble faced by the gay marriage movement in relationship to the child, as well as the trouble gay men and lesbians face related to visual representations of their desire, an alternative reading of Edelman that translates his theory to political practice is necessary.

Edelman's (2004) encouragement to embrace the negative might be read to suggest that gay and lesbian activists in the gay marriage effort present more visual evidence of their mothering and fathering. While this continues a dependence on reproductive futurism, it does, in a literal sense, queer such a vision. While not betraying Edelman, and suggesting an alternative strategy, featuring gay and lesbian parents work ideologically push the visual and cultural boundaries of the appropriate place of the child. Edelman writes,

Rather than rejecting, with liberal discourse, this ascription of negativity to the queer, we might, as I argue, do better to consider accepting and even embracing it. Not in the hope of forging thereby some more perfect social order—such a hope, after all, would only reproduce the constraining mandate of futurism, just as any such order would equally occasion the negativity of the queer—but rather to refuse the insistence of hope itself as affirmation which is always affirmation of an order whose refusal will register unthinkable, irresponsible, and inhumane. Queerness attains its ethical value precisely insofar as it accedes to that place, accepting its figural status as resistance to the viability of the social while insisting on the inextricability of such resistance from every social structure. (p. 3)

Such a strategy was not taken full advantage of in the No on 8 campaign, as extensively illustrated previously. In fact, few lesbians or gay men were featured in the No on 8 commercials, let alone any with children in tow. Embracing the negative, for gays and lesbians this literally means embracing a child, may work in visually compelling ways.

The ads examined here reveal the participation in and perpetuation of ‘reproductive futurism’ as a defensive attempt to cope with the child argument. The Yes on 8 campaign utilized the child as illustrated previously and repeated the concern for the child in subsequent commercials that stated a kindergarten class was taken on a field trip to see their lesbian teacher marry her partner in San Francisco, a commercial where a child comes home telling her mom that she learned in school that she could marry a woman, and the rehashing of a narrative from Boston wherein parents were not allowed to withdrawal their students from school on the days in which ‘gay content’ would be discussed. The implication in these commercials is commensurate with the ways Edelman explicates the child. The concern for the ways gay marriage would impact culture was exclusively placed at the feet of the innocent children who would bear the brunt of gay marriage.

The No on 8 campaign was not only unable to answer these argument pragmatically, they were equally unable to ideologically counter the concern for children. The narrator in the *Discrimination* ad argues that “We have an obligation to pass along to our children a more tolerant, more decent society.” This not only embraces the child in disempowering ways for gays and lesbians, it also pitches a sort of utopian possibility of decency and tolerance. The *Moms* ad participates in the same sort of logic. This ad features a plethora of mothers asking the audience to imagine a future in which children would “know about the American Dream; dignity, compassion, and kindness.” The ad also argues that the moms “refuse to be to be scared by all the lies about what will be taught in

schools.” This line is peculiar because it concedes that either children will be unaffected by learning about gay marriage in school or that nothing will change about what is taught in school. Both alternatives are unsavory for those who seek cultural acceptance of gays and lesbians. Either children will learn and be affected by the education they get, or nothing changes in culture. In either case, the mothers attempt to communicate that children will remain protected from whatever ‘evils’ conservative charge they will be. The ad *Parents* features three sets of heterosexual parents who argue in the commercial for a future free of discrimination, intolerance, and “treating people differently.” Their children, the commercial reasons, deserve a better future than the one provided by Proposition 8.

The No on 8 campaign participates in the child trope but mostly in a defense of accusations that children will be taught about gay marriage in school. In this respect, the movement embraces the protection of children to generate and maintain oppressive laws. One must wonder what would change if the commercials produced by No on 8 featured gay and lesbian families explaining that *they* did not want to teach discrimination and intolerance to *their* children or gay and lesbian couples who are happily childfree. Surely the narrative of gay marriage would have to change for these images to be recognizable as part of the campaign.

Embracing the negative will surely heighten the sensitivity of many on the issue of children of gays and lesbians—those likely to be most outraged are those who the movement would likely never convince; it will also demand a more

nuanced conversation about marriage, reproduction, and children. This also has the potential to spotlight other political debates that are fiercely defended by the figural child including birth control, abortion, and health care funding related to these situations. Creating a cultural breach in relationship to the appropriate place of children is a necessary step towards moving these debates away from one sided reproductive futurism and enabling gay and lesbian advocates to take positions in the debate that are anything other than defensive.

One last note here, the movement toward the inclusion of children in ad campaigns has been realized and, with little surprise, the effort included almost exclusively images of white middle/upper class lesbians (Kelsey, 2008). I have written previously of the attempt of the Human Rights Campaign (HRC) to tokenize lesbians in this context. The HRC has been criticized by many for its focus on agenda items that privilege white middle/upper class gay men; their token use of lesbians in their *Family* campaign capitalizes on gendered stereotypes of the supposed natural nurturing instinct of women. In this context, the figuring of women and children perpetuates gendered, classed, and racialized stereotypes of what a ‘good’ family looks like. New performances of embracing children must work against these ideologies and token representations. It is in the decision to deploy particular strategies that the demands of intersectional understandings must be attended. A critical intersectional study of the child might reveal the multiple ways in which racialized and gendered populations are marginalized from “being on the side of” children.

The HRC might refine their ads to feature gay men and lesbians of a host of racial backgrounds with special attention to how the images are described through text. If ads, for example, are meant to appeal to a particular demographic, that ad should be both visually and textually specific to generate identification with the audience. A gay marriage ad that targets an African American demographic might feature an image of a family, while the text speaks specifically about the importance and nature of family both biological family and cultural family. Similarly, a gay marriage ad might target migrant populations and discuss most specifically the protection of family, and family members. These examples are not complete nor are they perfect, but they are interesting broadly in understanding how gay marriage advocates might attend both visually and textually to the varying experiences of communities of color as they intersect with questions of family and marriage. This intersection is the potential moment of seriality for gay marriage advocates.

An intervening factor in these series will be a strain of religious objection. More than any other single demographic factor, the degree of one's commitment to religion is a predictor for support for or opposition to gay marriage (Pew Research Center, 2010). Soliciting more religious support for gay marriage should be fundamental to gay marriage advocates. Here, as in other rhetorical situations, analogizing the civil rights movement is a non-starter. Joseph (2002) argues that dominant narratives of Christianity reject the logic of a civil rights analogy. She argues that the subject in Christianity *earns* civil rights, a narrative in discord with traditional understanding of civil rights as natural rights. Joseph argues

The individual is freed by a society organized on the basis of rights, procedural rights, civil rights, to fulfill his own desires and ability, to express himself. For Christians, the connection of expression with civil rights works in reverse; rights are not meant to enable self-development and expression, but rather the expression of the subject is used to measure their worthiness for citizenship and civil rights (p. 132).

Despite the movement's overtly Christian foundations, analogizing civil rights lacks "narrative fidelity" with traditional Christian tropes (Fisher, 1984). This might do double damage with an older generation of African Americans who have experienced the long 'wait' for the realization of civil rights—such a respect for the 'wait' is expressed in response to Proposition 8 in the media. In his appearance with D. L. Hughley, Dan Savage expresses his beliefs that African Americans share a responsibility for seeking social justice. D. L. Hughley responds suggesting that many of his viewers believe that the gay marriage movement is asking for too much too quickly. The civil rights movement took decades to be realized and is still working towards racial equality—the activists in California, he reasons, have lost connection with the original movement. Jasmyne A. Cannick rounds out this discussion nicely arguing that if white gay rights leaders are not interested in investing time and efforts in African American communities, they cannot "expect black people to separate the church and religion from the civil rights movement."

Courting religious support, then, is dicey; it seems a waste of time and resources to attempt to court conservative evangelical portions of the American

electorate. However, garnering the political will and sanction of those religious organizations that are more liberal may help gay and lesbian activists communicate more specifically with the religious portion of American culture. Putting to work those members of the gay and lesbian community who are religious or who grew up in religious homes may have valuable contributions to crafting messages intended for religious communities. While the campaign in California worked in this direction, it came late in the campaign. It was not until October that the No on 8 campaign was able to release a statement of support signed by major religious leaders in the state (Jones & Cox, 2009). Mobilizing opposition to gay marriage was easy and swift—within 24 hours, the Yes on 8 campaign produced a similar document, quadrupling the number of signatures and generating more press than the gesture in support of gay marriage (Jones & Cox, 2009). With only this attempt to negotiate the terrain of religious resistance to gay marriage it is not difficult to understand how 82% of people who label themselves religious voted for Proposition 8.

Religious resistance to gay marriage may be blunted as religious leaders support the movement; however, as California demonstrates, this is not sufficient. The answer to the child problem suggests the embracement of the negative; in this case, however, there seems to be little that points to embracing the damnation of religious organizations as a way to manifest deconstructions of religion. Instead, the gay marriage movement should work towards more investment in coalitions with religious institutions or faiths that are welcoming to gays and lesbians. The issue of religion will not simply “go away” and theological investments in

sexuality have developed over time—gay and lesbian activists must work within these changes and with open and willing religious partners to demonstrate that their political goals are not in direct competition with religious mandates. Indeed there are a number of religious gays and lesbians, even in the most homophobic religious sects, who have carved out space for the expression and conversation of homosexual desire including Affirmation (Mormon), Affirming Pentecostal Church, the Association of Welcoming Baptists, Axios (Eastern Orthodox Catholic), DignityUSA (Roman Catholic), Evangelicals Concerned, and many more. Engaging these organizations to expose greater religious support and mobilization is an additional point of coalition building.

Religion is so prominently figured in the debate over gay marriage that it has seeped into cultural interpretations of court litigation. Gay marriage is a religiously saturated issue in the court system though the burden of the American court system, in part, is to maintain the separation of church and state. Working toward clearer public interpretations of court decisions, particularly the role of the judiciary to observe a secular state, would be useful. More specifically, articulating a more clear understanding of the relationship between the role of public consensus or voting and the role of judicial review in the court system must be the goal of gay marriage movement activists. Most states that have legalized gay marriage have done so through state Supreme Court decisions, in some instances overruling the decision of the voters in popular elections.⁹ Opponents

⁹ Of the five states in the U.S. that have legalized gay marriage, Massachusetts, Iowa, Connecticut, and Vermont legalized that right through court decisions. The

of gay marriage misconstrue the intended function of the judiciary, supposing that it is simply another arm of the government that enforces laws. While this is surely a function of the judiciary, it is not its sole function. This mischaracterization can be found in resistance to gay marriage in California and most recently in Iowa.

Opponents of gay marriage in California characterized the judiciary as “activist” in their decision in *In re Marriages* the court decision what prompted the petition for Proposition 8, as discussed earlier in this work. The description of “activist judges” implies the judges have violated the accepted role of the judiciary. In *In re Marriages*, the arguments before the court were not questions related to public support or opposition to gay marriage; instead the question was if Proposition 22 met the standard of strict scrutiny. In other words, did the interest of the state in banning gay marriage outweigh denying homosexuals a fundamental right such as marriage? In California the court ruled that Proposition 22 did not meet reasonable standards of strict scrutiny.

No question before the court asked for a ruling on what has become known as the “lemon test” (Schiappa, 2009). The “lemon test,” established in *Lemon v. Kurtzman* (1971), mandates that government action or laws must not “have a primary effect of either advancing or inhibiting religion” and must not “result in an excessive government entanglement with religion.” In other words, all laws must serve a secular purpose. They may serve religious ends, but their

fifth state, New Hampshire, legalized gay marriage through legislation that would later be challenged and upheld (Adams & Crary, 2009; Burge, 2003)

primary purpose must be secular. The functionality of the judiciary, then, is not just enforcement of law, but also of ensuring that laws are fair and do not unreasonably infringe on the rights of the citizenry. This is rarely the narrative characterization of judges or the judiciary in public discourse concerning gay marriage. In fact, in California, Iowa, Massachusetts, and New Jersey, judges have been consistently vilified as “activist” judges. In California and Iowa, judges have been labeled, further, as “San Francisco” judges (Aronsen, 2011). Given prominent cultural tropes about San Francisco, the implication is that the judges are either gay themselves or have “gay agendas” they push from the bench. This dismisses completely the legal questions brought in the cases considered for gay marriage and trivializes the function of the judiciary.

The Iowa Supreme Court decided in April 2009 an expansive definition of marriage that includes gay marriage. In *Varnum v. Brien* (2009), the Iowa Supreme Court determined that the 1998 amendment to the Iowa marriage statute that defined marriage as exclusively heterosexual violated the equal protection clause in the Iowa constitution. This decision had the effect of making gay marriage legal in Iowa. The outcry from oppositional activists was strong; so strong three of the judges that voted in the interest of equal protection were removed from their seats in a vote of no confidence in the 2010 gubernatorial election¹⁰. My point is simple: So long as conservative interest groups and

¹⁰Iowa’s procedure for appointing and retaining judges is through merit appointments. A panel of lawyers and the second leading member of the Supreme Court provide a list of nominees to each governor when a seat on the bench needs to be filled. All judges serve an 8-year term, and run unopposed at the end of

campaigns against gay marriage control the characterization of the judiciary as self-serving agenda-pushing activists, there is little hope of mainstream acceptance of equal protection decisions. Gay marriage movements must do a better job of educating the electorate of the function of the court system in adjudicating the constitutional substance of laws, not auto-confirmation of changes made by popular vote.

This suggestion is complicated by the difficulty of extracting religion from public discourse surrounding gay marriage. The public does not have a “lemon test,” and anti-gay marriage activists ensure a stable religious foundation in their opposition. In this way, more must be done on behalf of activists and public scholars to articulate the difference between public opinion and constitutionality (Schiappa, 2009). The degree to which this can be achieved absent a reliance on civil rights legislation or a civil rights analogy is questionable. Butler’s arguments of citationality, reviewed in Chapter 3, become relevant here. With Supreme Court decisions relying on the legal precedence of civil rights litigation, moving away from the analogy and reliance on the civil rights movement remains difficult.

Gay and lesbian activists for gay marriage must also be concerned with how their rhetorical constructions situate opponents of gay marriage. With over 65% of the country opposed to gay marriage, activists must find ways to restrain

their term for retention. In the 2010 election, Iowans elected Terry Bransted who previously held the governorship from 1984-1999. Interestingly, during his original stead as governor, he appointed the three judges who were ousted just as voters re-elected him. 2010 was the first time since this system was adopted in 1962 that a judge was forced out of a seat via election.

how they articulate the motives and views of those they mean to persuade (Pew Research, 2010). The analogy to the civil rights movement here is particularly troubling. Those who would oppose the right to gay marriage are, in the analogy, on the “wrong side of history” but also foster prejudice to the point of segregation. While this may be the genuine feeling of many of the gay marriage movement, name-calling those they seek to persuade is counterproductive. This logic, while emotionally compelling, only further complicates the possibility for the realization of gay marriage and for coalitional negotiations. These articulations of those that oppose gay marriage are likely to generate a plethora of divides both within and outside of gay marriage movements.

Those within the movement who reject the analogy for a variety of reasons are likely to feel alienated from broader movements. The analogy cleaved many in the queer African American community, as well as Japanese Americans, Latinos and others whose collective racialized history fueled the civil rights analogy. Jasmyn Cannick’s arguments reviewed earlier demonstrate this complication. As a gay marriage activist, she felt uncompelled to advocate, in many instances, on behalf of the movement because the movements themselves were absent in racially specific communities. This condition is likely replicated in other racialized communities, effectively squandering sources of coalitional possibilities. As previously noted, just a single office for the No on 8 campaign was open in neighborhoods populated primarily by Latinos—an office that was a No on 8 office in name only with no operational funding from the campaign. These relationships, while not directly consequential of the choice of analogy, are

unsustainable if the question of racism or discrimination is always already historicized and uninterrogated.

Outside of the gay and lesbian community, the analogy complicated the degree to which the No on 8 campaign, or campaigns in the future, secured sympathy from those voters/citizens who might be neutral on the question of gay marriage. Schiappa (2009) argues that complicating the analogy is the implication that if one opposes gay marriage they are bigots and segregationists. This argument, while emotionally evocative, is a non-starter for persuasion. Suggesting that those who oppose gay marriage are bigots the movement in California compromised their ability to convince an increasingly large number of independent voters. Political scientist Daniel Weintraub (2008) argues “more independents support gay marriage than oppose it, though many need encouragement to vote on the issue” (p. 133). In this way, then gay marriage movements, not just in California but also nation wide, must be full of care when crafting messages that cast enemies.

A decidedly tragic frame characterizes many of the ads analyzed in the last chapter with a few exceptions. *Yes vs. No*, while the subject of my protracted criticism for its sexist use of the feminine body to establish desire, is specifically contextualized in the comic frame. The original *Yes vs. No* ad does not participate in those problematics. In the ad, ‘Yes’ and ‘No’ take up the public discourse surrounding Proposition 8 in a jovial exchange. ‘Yes’ is the ‘clown’ character that Carlson (1988) references in her review of the comic frame; the comedy comes from an over exaggerated ‘Yes’ ready to happily violate the rights of gays

and lesbians. His dialogue is frank, casual, and self-aware of the discrimination of Proposition 8. ‘Yes’ gives a “thumbs-up” to the camera when he says “I want to preserve tradition.” He states in a sarcastic tone, “I’d like to see where all this fairness and dignity is going to get you.” At the end of the commercial, when ‘No’ tells the audience to vote No on Proposition 8, ‘Yes’ looks upset. ‘No’ puts his hand on ‘Yes’ shoulder and states “It’ll be alright buddy” as he smiles at him. The over-the-top characterization of ‘Yes’ is good natured, not malevolent—they are ‘buddies’ at the end of the commercial. ‘Yes’ is simply characterized as being mistaken, perhaps stubborn and traditional, but decidedly not *evil* as suggested in Burke’s famous rendering (1959).

The implications for voters of color are particularly cruel in the equivalency made between rejections of gay marriage and bigotry. Voters of color, who were tokenized in the commercials reviewed here, whose votes were not prioritized, and whose interests were ignored by the No on 8 campaign, ended as villains in a racial calculation that has historically marginalized them.

Locating and mobilizing strategies that attend to the child, investing time and effort in communities of color, translating the role of the judiciary, and working towards countering religious objections to gay marriage would have helped in the case of Proposition 8; keeping these considerations in mind as gay marriage movements proceed seems an unqualified necessity. It is also necessary that gay rights movements fill a basic public relations gap: Egan and Sherrill (2005) demonstrate that in 2004 “Americans rated groups such as ‘rich people,’ ‘feminists,’ ‘fundamentalists,’ ‘people on welfare,’ and ‘Muslims’ more warmly

than gays and lesbians.” My point here is not that gays and lesbians are or are not more or less culturally accepted than the categories established by Egan and Sherrill’s study; instead, gay marriage movements must not take any support for granted.

The Pew Research Center (2010) estimates national public support in the United States for gay marriage at 35%. When specifically looking at race, the picture is also bleak; African Americans remain the most resistant to legal gay marriage with only 28% of those surveyed supporting gay marriage. Latinos do not support in much higher numbers, with only 32% supporting gay marriage. While these numbers cannot tell the whole story of gay marriage opposition, they do provide groundwork for understanding how the discursive choices of the movement may have negatively affected voter turn out for the No on 8 campaign.

Given the overwhelming opposition to gay marriage and the difficulties faced by the movement in negotiating coalitional partners for this end, a turn to gay marriage as an agenda item itself is warranted. Chambers (2003) illustrates the ways in which rights-based claims are framed and how those characterizations affect the issue. Chambers explains four ways of articulating and reading social demands for rights based freedoms. The first, equality, is the most traditional understanding of rights demands. Equality assumes that rights are provided for the freedom and liberty of all citizens. Special rights, the second frame discussed by Chambers, assumes that rights are extended to minority groups for special protections beyond those extended to the general population. The third frame, resentment, “is a moralistic claim...to instantiate in the law the very minority

status of [a] group” (p. 149). In this frame, the ontological motives of rights claims are paramount. Hegemonic articulation is the final frame and seeks to establish legal claims in a way that can be universalized to “link up with other anti-system demands in a way that makes significant change possible” (p. 150).

These frames are relevant to the question of gay marriage as an agenda item for contemporary gay and lesbian movements. The tension between those opposed to gay marriage who believe the right would constitute a special right or denigrate their own rights and those *within* the movement who reject the desire to champion gay marriage, seeing it as a tool of state control and heteronormativity, is creating a staggering burden for activists. The trouble is both a question of rhetoric and a question of agenda.

Rhetorically, gay marriage movements are forwarding primarily an equality frame for rights directly countered by conservative articulations of a special rights rhetoric. These rhetorical conditions are doing little to forward the gay marriage debate. Rhetorically repositioning arguments in the fourth frame, ‘hegemonic articulation’, for gay and lesbian rights may aid in the development of meaningful coalitions across intersecting identities. This rearticulation requires a change in the agenda for mainstream gay and lesbian movements. This might take the specific form of articulating gay marriage and immigration rights, directly linked as explored previously by Chávez. A hegemonic co-articulation of violent hate crimes as they intersect with positions of oppression and social inferiority. These claims must align with other systems of oppression but not analogize them. Framing gay marriage in the equality frame forecloses some

possibilities for public dialogue that might highlight the critical rejection of the marriage institution. Operating from the equality frame, the right to marry means more choice for everyone, which on face, is a framing of marriage that is undesirable to counter. To be sure, the demand for gay marriage traffics in imagining a utopic future where gay and lesbian couples may travel freely, greeted by warm neighbors who celebrate their, for all intents and purposes, heteronormative family.

Butler (2000) argues that “the lesbian/gay alliance” with queer communities “is broken by the petition of marriage” (p. 176). Specifically, Butler argues that the institution of marriage is dangerous because it seeks to deradicalize queer movements. Literally, it takes the ‘queer’ out of queer movements against the state. In this way, a gay marriage agenda enhances the power of the state to discipline those who remain outside of marriage, gay or heterosexual. Warner (1999) calls this the power of “selective legitimacy” (p. 82) (see also, Puar, 2007). Those who refuse marriage will continue to be subject to marginality. Butler suggests that those interested in broadening the rights of gays and lesbians should, in fact, be working to divorce marriage from its function as conferral of entitlements. She writes “to the extent that those universalizing effects [of marriage legislation] are those that emanate from the state legitimization of sexual practice, the claim has the effect of widening the gap between legitimate and illegitimate forms of sexual exchange” (p. 176).

Chambers (2003) argues that “delinking” marriage from entitlement rights does double duty in relation to contesting the state. It both challenges state

power and garners queer entitlements that are currently inaccessible to queer populations. This makes the struggle more complicated, messy, and full of potential for coalitions. Repositioning the fight for marriage will require piecemeal fights for the 1,100-1,400 entitlements that are wrapped up in federal rights to marriage. Attempts to divest marriage of its legal content, while avoiding a civil union compromise, work against dominant cultural investments in marriage as it disciplines others.

As this analysis comes to a close, it seems clear that some critical calculative decisions must be made about the cost and benefits of the marriage movement as it stands. These are critical choices both in terms of immediacy and in terms of exercising power. If movements are to proceed in the demand for gay marriage, they must not expect automatic support from other minority groups because of a shared minority status, nor should they put into peril the possibility for alternative coalitional potentials in their march towards liberal reform. To be quite frank, the goals of the marriage movement are not coalitional. Their demands are too specific. Widening the lens to issues like employment discrimination, health care, and hate crimes might help the gay and lesbian community work with other movements for social justice. These relationships need not be long term—they can be serials—but they are imperative to improving the image of gays and lesbians in a broader public.

Limitations and Future Research

The research presented here, while meaningful and important, cannot tell the whole story. As I previously suggested my investments are adding to both

ongoing discussions of critical rhetoric, intersectionality, social movements, and queer and race politics; this project reflects my intellectual and material commitments to these interests. There are, however, limitations to this research.

Theoretically, there remain questions to answer in regards to a critical intersectional analysis, specifically in relationship to intersectionality, Puar (2007) argues that intersectionality is a helpful heuristic tool but is problematic as a method of analysis. She writes:

Queer intersectional analyses challenge...regulatory queerness, but in doing so may fail to subject their own frames to the very critique they deploy. In this second formulation, queer of color and queer of migrant communities...are always beyond reproach, an untenable position given the (class, religious, gender-queer, national, regional, linguistic, generational) tensions within, among, and between queer diasporic, immigrant, and of color communities, thus obfuscating any of their own conservative proclivities. (p. 23)

Puar's suggests that intersectional analyses often miss a necessary *criticism* of those communities under consideration. This absence fails to attend to the varying problematic ideologies that traffic in all communities, including those on the margins of culture. Puar's criticism of intersectionality continues,

It also holds queer of color organizing and theorizing to impossible standards and expectations, always beholden to spaces and actions of resistance, transgression, subversion. All of one's identities not just gender and sexual must be constantly troubled, leading to an impossible

transcendent subject who is always already conscious of the normativizing force of power and always ready and able to subvert, resist, or transgress them. (pp. 23-24)

Taken here, Puar's criticisms are relevant to questions of how methodologically one approaches the study of intersectionality. Critics might mistakenly and simultaneously assume that all individuals under study are aware of and prepared to resist ideological structures and strains of oppression—this assumption, importantly, absolves the individuals and communities from their own responsibility and exercise of power.

Puar (2007) also argues, paradigmatically, that intersectionality is fundamentally flawed in that it is foundationally reliant on the very identity categories it seeks to complicate with sinister implications. She writes

A process that betrays the founding impulse of intersectionality, that identities cannot so easily be cleaved. We can think of intersectionality as a hermeneutic of positionality that seeks to account for locality, specificity, placement, junctions. As a tool of diversity management and a mantra of liberal multiculturalism, intersectionality colludes with the disciplinary apparatus of the state--census, demography, racial profiling, surveillance--in that "difference" is encased within a structural container that simply wishes the messiness of identity into a formulaic grid, producing analogies in its wake and engendering what Massumi names 'gridlock'; a boxing into its site on the culture map. (p. 212)

Most damning here is the implication that intersectionality functions as “diversity management” in the service of the state. The degree to which intersectional studies engage in the packaging of identity for mapping requires analysis beyond the scope of this research. Relevant to this question is the purposed end of research. The purpose of this research is to articulate the trajectory of rhetorical choices made by the No on 8 campaign to put to use civil rights rhetoric in public discourse for gay marriage. Towards this end, I articulate practical and theoretical coalitional complications and possibilities that emerge. This research is not exclusively theoretical and resists the compulsion to treat identity without complication. More research theorizing how future intersectional studies might avoid such hegemonic work is warranted.

In a similar vein, criticism of identity politics is relevant here as well. Puar’s (2007) criticism is, in part, an iteration of paradigmatic criticisms of post-structuralist identity politics. Criticisms of identity politics take myriad forms; Puar argues that “The modern subject is exhausted, or rather we have exhausted the modern subject. We have multiplied it to accommodate all sorts of difference, intersected it with every variable of identity imaginable” (p. 206). She argues that intersectionality as method often presents a unified subject that is both enabled and disabled by their identity. Identity politics, for Puar, is incomprehensible in a post-modern politics. Scholars must resist the stability, permanency, and fixity of categorical identities as they emerge in research (p. 216).

Critics who engage an intersectional analysis may fall into the traps outlined by Puar, but these are not endemic to intersectionality as a theoretical tool. The founding concepts of intersectionality need not assume the stability of identity categories for individuals or perpetuate such a static assumption. Specifically, the rendering of a critical intersectional rhetoric implicitly rejects the idea of such stability. My hope is that the articulation of a critical intersectional rhetoric might work in resistance to the methodological problems outlined by Puar (2007). The analysis in this project reflects a commitment to understanding rhetorics of freedom and rhetorics of domination as they emerge in the critical analysis of the discourse surrounding Proposition 8. The analysis here attempts to exact some understanding of ideological strains in the multitude communities analyzed. This study does not reserve “blame” or responsibility a simplistic manner. I have articulated nuanced arguments that respect the complexity of socially constructed identity formations as they materialize in real bodies that experience oppression.

Future research might also integrate material analyses of other coalitional possibilities. As suggested in the discussion above coalitional possibilities exist external to the question of marriage for the communities discussed here. Specifically, I suggest coalitions surrounding hate crimes, employment and housing discrimination. I envision future research that explores and interrogates the possibility for coalitions in working against hate crimes; some current research implies this relationship (Chávez, 2011; Fox, 2011; Gray, 2009; JRC.org, 2011; Kelsey, 2008). Coalition building around the materiality of hate crimes

enables the articulation of a shared sense of oppression that is not reliant on a historical narrative that highlights material difference. The successful passage of the Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act, passed in 2008 just after the Proposition 8 campaign, may reveal ways in which successful coalitions might be forged on the question of race and sexuality. Hate crimes are surely a sustaining issue. The latest hate crimes report released by the Federal Bureau of Investigations (FBI) indicates that 8,336 hate crimes were committed in 2009; half of all hate crime victims are African American, with Jews and gay and lesbian victims each accounting for one quarter of victims. Further, the act is the first federal legal protection extended specifically to transgender persons, a coalitional extension topically relevant to the research discussed here. Future research may also consider other political issues that lend themselves to coalitions including employment and housing discrimination. Further investigations of how coalitions are negotiated in these contexts might add to an enriching and productive conversation about coalition building towards the end of civil and social equality.

REFERENCES

- About/history*. (2010). Retrieved from <http://jrcla.org>.
- About*. (2010). Retrieved from www.eqca.org.
- Alcoff, L. M. (2005). *Visible identities: Race, gender, and the self*. Oxford University Press.
- Anzaldúa, G. (1999). *Borderlands/La Frontera: The New Mestiza*. San Francisco: Aunt Lute Books.
- Aronsen, G. (2011). Bob Vander Platts' lost cause: Why same-sex marriage will win the day. *Mother Jones*, 3, p. 15.
- Asante, M. (1988). *Afrocentricity*. Trenton, NJ, Africa World Press, Inc.
- Baehr v. Miike, 910 P.2d 112 (Haw. 1996).
- Baker v. State of Vermont, 744 A.2d 864 (Vt. 1999).
- Baldwin, J. (1983). *Notes of a native son*. Boston: Beacon Press.
- Bennett, J. A. (2006). Seriality and multicultural dissent in the same-sex marriage debate. *Communication & Critical/Cultural Studies*, 3, 141–161.
- Benson, W. (2008). Anything but straight: Frank talk on race and Prop. 8. *Falls Church News Press Online*. Retrieved from:
http://www.fcnp.com/index.php?option=com_content&view=article&catid=17:ntional%20commentary&id=3737:anything-but-straight-frank-talk-on-race-and-prop8.

- Berger, M. T. & Guidroz, K. (2009). *The intersectional approach: Transforming the academy through race, class, and gender*. The University of North Carolina Press.
- Bernstein, M. (2002). Identities and politics: Toward a historical understanding of the lesbian and gay movement. *Social Science History*, 26, 531-581.
- Boswell, J. (1995). Same-sex unions in premodern Europe. New York: Random House.
- Brah, A. & Phoenix, A. (2004). Ain't I a woman? Revising intersectionality. *Journal of International Women's Studies*, 5, 75-86.
- Brause v. Alaska Dept. of Health & Social Services, 21 P3d 357 (Ak. 1995).
- Brouwer, D. C. (1996). Privacy, publicity, and propriety in Congressional eulogies for Representative Stewart B. McKinney (R-Conn.). *Rhetoric & Public Affairs*, 7, 191-214.
- Brouwer, D. C. (2009). Communication as counterpublic. In Shepherd, G. J., St. John, J. and Striphas, T. (Eds). *Communication as...Perspectives on theory*. Thousand Oaks, CA: Sage Publications.
- Brown v. Board of Education of Topeka, 347 U.S. 483. (1954).
- Butler, J. (1988). Performative acts and gender constitution: An essay in phenomenology and feminist theory. *Theatre Journal*, 40, 519-531.
- Butler, J. (1990). *Gender trouble: Feminism and the subversion of identity*. New York: Routledge.
- Butler, J. (1993). *Bodies that Matter: On the discursive limits of "sex."* New York: Routledge.

- Butler, J. (1997). *Excitable speech: A politics of the performative*. New York: Routledge.
- Butler, J. (1999). *Gender trouble: Feminism and the subversion of identity* (2nd ed.). New York: Routledge.
- Butler, J. (2004a). *Undoing gender*. New York: Routledge.
- Butler, J. (2004b). *Precarious life: The powers of mourning and violence*. London: Verso Books.
- Campbell, K. K. (1989). *Man cannot speak for her: Volume I; A critical study of early feminist rhetoric*. New York: Greenwood Press.
- Campbell, K. K. (1993). Biesecker cannot speak for her either. *Philosophy of Rhetoric*, 26, 153-159.
- Campbell, K.K. (1995). Gender and genre: Loci of invention and contradiction in the earliest speeches by U. S. women. *Quarterly Journal of Speech*, 81, 479-495.
- Cannick, J. A. (2008, November 8). No-on-8's white bias: The right to marry does nothing to address the problems faced by both black gays and black straights. *Los Angeles Times*. Retrieved from <http://www.latimes.com/news/opinion/la-oecannick82008nov08,0,3295255.story>.
- Cannick, J. A. (2008, November 9). The situation room with Wolf Blitzer. Washington, D.C.: CNN.
- Cantor, N. F. (1993). *The civilization of the Middle Ages*. New York: Harper Perennial.

- Carlson, A.C. (1988). Limitations on the comic frame: Some witty American women of the nineteenth century. *Quarterly Journal of Speech*, 74, 310-322.
- Carlson, A. C. (1991). The role of character in public moral argument: Henry Ward Beecher and the Brooklyn Scandal. *The Quarterly Journal of Speech*, 77, 38-52.
- Chambers, S. (2003). Ghostly rights. *Cultural Critique*, 54, 148-177.
- Charland, M. (1991). Finding a horizon and telos: Challenge to critical rhetoric. *Quarterly Journal of Speech*, 77, 71-74.
- Chauncey, G. (1994). *Gay New York*. Cambridge, MA: Basic Books.
- Chauncey, G. (2004). *Why marriage: The history shaping today's debate over gay equality*. Cambridge, MA: Basic Books.
- Chávez, K. (2011). Counterpublic enclaves and understanding the function of rhetoric in social movement coalition building. *Communication Quarterly*, 59, 1-18.
- Chávez, K. (2009). Exploring the defeat of Arizona's marriage amendment and the specter of the immigrant as queer. *Southern Communication Journal*, 74, 314-324.
- Chidester, P. (2008). May the circle stay unbroken: *Friends*, the presence of absence and the rhetoric reinforcement of whiteness. *Critical Studies in Media Communication*, 25, 157-174.
- Cloud, D. L. (1994). The materiality of discourse as oxymoron: A challenge to critical rhetoric. *Western Journal of Communication*, 58, 141-163.

- CNN Time Warner (2008, November 8). D. L. Hughley breaks the news. New York, NY: CNN.
- Cohen, C. J. (1999). *Boundaries of blackness: AIDS and the breakdown of black politics*. Chicago: University of Chicago Press.
- Cole, R. (1970) Collision in San Francisco, 1: Old, new ideas tangle at NACHO convention. *The Advocate*, p.13.
- Collins, P. H. (1996). What's in a name? Womanism, black feminism, and beyond. *The Black Scholar*, 26, 9-17.
- Collins, P. H. (1998). Moving beyond critique. In *Fighting words: Black women and the search for justice*. (pp. 187-200). Minneapolis: UP of Minnesota.
- Collins, P. H. (2005). *Black sexual politics: African Americans, gender, and the new racism*. New York: Routledge.
- Condit, C. (1987). Democracy and Civil Rights: The universalizing influence of public argumentation. *Communication Monographs*, 54, 1-18.
- Condit, C. (1990). *Decoding abortion rhetoric: Communicating social change*. Urbana: University of Illinois Press.
- Cox, J. R., & Foust, C. R. (2009). Social movement rhetoric. In A.A. Lunsford, K. Wilson, & R. Eberly (Eds.), *The SAGE Handbook of Rhetorical Studies* (pp. 605-628). Thousand Oaks, CA: Sage Publications.
- Cox, R. W. (1983). Gramsci, hegemony and international relations: An essay in method. *Millennium: Journal of international relations*, 12, 162-175.

- Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review*, 43, 1241–1299.
- Crenshaw, C. (1997). Women in the Gulf War: Toward an intersectional feminist rhetorical criticism. *Howard Journal of Communications*, 8, 219-235.
- Crenshaw, C. (1997). Resisting whiteness's rhetorical silence. *Western Journal of Communication*, 61, 253-278.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 139-167.
- Curnas, E. (2004). Instituting heteronormative belief in the law: The case of California's proposition 22. *Culture and Religion*, 5, 161-178.
- D'Emilio, J. (1992). *Making trouble: Essays on gay history, politics, and the university*. New York: Routledge.
- Deitcher, D. (1995). *The question of equality: Lesbian and gay politics in America since Stonewall*. New York: Scribner.
- Deluca, K. M. (1999). Unruly arguments: The body rhetoric of Earth First!, ACT UP, and Queer Nation. *Argumentation and Advocacy*, 36, 9-21.
- Derrida, J. (1972). *Dissemination*. London & New York: Continuum.
- Doane, A. & Bonilla-Silva, E. (2003). *Whiteout: The continuing significance of racism*. NY: Routledge.
- Douglas, K. B. (1996). *The Black Christ*. Mary Knoll, NY: Orbis Books.

- Douglas, K. B. (1999). *Sexuality and the Black Church: A womanist perspective*. Mary Knoll, NY: Orbis Books.
- Dow, B.J. (1995). Feminism, difference(s), and rhetorical studies. *Communication Studies*, 46, 106-117.
- Dow, B.J. (1997). Feminism, cultural studies, and rhetorical studies. *Quarterly Journal of Speech*, 83, 90-106.
- Du Bois, W. E. B. (1971). *W.E.B. Du Bois speaks: Speeches and addresses 1920-1963*. Atlanta: Pathfinder Press.
- Duggan, L. (2004). *In the twilight of equality?: Neoliberalism, cultural politics, and the attack on democracy*. Ypsilanti, MI: Beacon Press.
- Dyer, R. (1997). *White*. New York: Routledge.
- Edelman, L. (2004). *No future: Queer theory and the death drive*. Durham: Duke University Press.
- Enck-Wanzer, D. (2006). Trashing the system: Social movement, intersectional rhetoric, and collective agency in the Young Lords Organization's garbage offensive. *Quarterly Journal of Speech*, 92, 174-201.
- Epstein, S. (1987). Gay politics, ethnic identity: The limits of social constructionism. *Socialist Review*, 17, 9-54.
- Epstein, S. (1999). Gay and lesbian movements in the United States: Dilemmas of identity, diversity, and political strategy. In Adam, B. D. and Duyvendak, A. J. (Eds.) *The global emergence of gay and lesbian politics: National imprints of a worldwide movement*. Philadelphia, PA: Temple University Press.

- Farrell, T. (1991). Practicing the arts of rhetoric: Tradition and invention.
Philosophy and Rhetoric, 24, 183-212.
- Feagin, J. R. (1997). *The new urban paradigm: Critical perspectives on the city*.
New York: Roman & Littlefield Publishers.
- Fisher, W. R. (1984). Narration as a human communication paradigm.
Communication Monographs, 51, 1-22.
- Flores, L. A. & Moon, D. G. (2002). Rethinking race, revealing dilemmas:
Imagining a new racial subject in *Race Traitor*. *Western Journal of
Communication*, 66, 181-207.
- Foster, D. (2011). Breaking: Obama administration declares DOMA
unconstitutional, won't defend it in court. *National Review*, p. 24.
- Foss, S.K., and Griffin, C.L. (1992). A feminist perspective on rhetorical theory:
Toward a classification of boundaries. *Western Journal of
Communication*, 56, 330-349.
- Foss, S.K., and Griffin, C.L. (1995). Beyond persuasion: A proposal for an
invitational rhetoric. *Communication Monographs*, 62, 2-18.
- Foucault, M. (1979). *Discipline and punish: The birth of the prison*. New York:
Vintage Books.
- Fox, R. (2011). Implicative performance: Staging the "Jena Six" controversy in
the midst of the Proposition 8 debate. *Text and Performance Quarterly*,
31, 90-96.
- Frankenberg, R. (1997). *Displacing whiteness: Essays in social and cultural
criticism*. Durham: Duke University Press.

- Fraser, N. (1990). Rethinking the public sphere: A contribution to the critique of actually existing democracy. *Social Text*, 25, 56-80.
- Gamson, J. (1995). Must identity movements self-destruct? A queer dilemma. *Social Problems*, 42, 390-407.
- Geertz, C. (1973). *The interpretation of cultures: Selected essays*. New York: Basic Books.
- Goldberg-Hiller, J. (2002). *The limits to union: Same-sex marriage and the politics of Civil Rights*. Ann Arbor, MI: University of Michigan Press.
- Goldenberg, M. (2007). The problem of exclusion in feminist theory and politics: A metaphysical investigation into constructing a category 'woman'. *Journal of Gender Studies*, 16, 139-153.
- Goodridge v. Dept. of Public Health, 798 N.E.2d 941 (Mass. 2003).
- Gray, M. (2009). *Out in the country: Youth, media, and queer visibility in rural America*. New York: New York University Press.
- Greene, R. W. (1998). Another materialist rhetoric. *Critical Studies in Mass Communication*, 15, 21-41.
- Griffin, H. L. (2006). *Their own receive them not: African American lesbians and gays in Black churches*. Cleveland: The Pilgrim Press.
- Griffin, L. (1984). When dreams collide: Rhetorical trajectories in the assassination of President Kennedy. *Quarterly Journal of Speech*, 70, 111-131.
- Gross, M. J. (2008, November). Is gay the new black? *The Advocate*. Retrieved from http://www.advocate.com/exclusive_detail_ektid65744.asp.

- Habermas, J. (1962). *The structural transformation of the public sphere: Inquiry into a category of bourgeois society*. Cambridge: Polity Press.
- Hall, J. D. (1995). The long civil rights movement and the political uses of the past. *Journal of American History*, 91, 1233-1263.
- Hammonds, E. M. (1997). Seeing AIDS: Race, gender, and representation. In N. Goldstien and J. Manlowe (Eds.) *The gender politics of HIV/AIDS in women*. New York: New York University Press.
- Hariman, R. (1991). Critical rhetoric and postmodern theory. *Quarterly Journal of Speech*, 77, 67-70.
- Haynes, V. D. (1998, March 1). "Whiteness studies" movement grows. *Las Vegas Review-Journal*, 10B.
- Herman, D. (1997). *The antigay agenda: Orthodox vision and the Christian right*. Chicago: University of Chicago Press.
- Hill, M. (1997). *Whiteness: A critical reader*. New York: New York University Press.
- hooks, b. (1989) *Talking back: Thinking feminism, thinking black*. Boston: South End Press.
- hooks, b. (1990). *Yearning: Race, gender, and cultural politics*. Boston: South End Press.
- hooks, b. (1992). *Black looks: Race and representation*. Boston: South End Press.
- In re Marriage Cases, 43 Cal.4th 757, 183 P.3d 384, 76 Cal.Rptr.3d 683 (Cal. 2008).

- Jacobs, A.M. (1993). The rhetorical construction of rights: The case of the gay rights movement, 1969-1991. *Nebraska Law Review*, 72, 723-759.
- Jensen, R. J. (2001). Evolving protest rhetoric: From the 1960s to the 1990s. *Rhetoric Review*, 20, 28-32.
- Johnson, E. P. (2001). 'Quare' studies or (almost) everything I know about queer studies I learned from my grandmother. In Johnson E. P. & Henderson M. G. (Eds.) *Black Queer Studies: A critical anthology* (pp. 124-157). Durham: Duke University Press.
- Jones, R. P., & Cox, D. (2009). Opinion: The surprising religious divides on Proposition 8. *CNN: Special report*. Accessed April 1, 2011: <http://ac360.blogs.cnn.com/category/proposition-8/>
- Joseph, M. (2002). *Against the romance of community*. Minneapolis, MN: University of Minnesota Press.
- Kelsey, M. L. (2009). Gendered social movements: A critical comparison of the suffrage and gay marriage movements. *Kaliedoscope*, 8, 95-116.
- Koerber, A. (2000). Toward a feminist rhetoric of technology. *Journal of Business and Technical Communication*, 14, 58-73.
- Kramer, L. (1997). Same-sex marriage, conflict of laws, and the unconstitutional public policy exception. *Yale Law Journal*, 106, 1965-2007.
- Kuypers, J. A. (1996). Doxa and a critical rhetoric: Accounting for the rhetorical agent through prudence. *Communication Quarterly*, 44, 452-462.
- Lawrence v. Texas, 539 U.S. 558. (2003).

- Lockhart, J. & Schwartz, S. B. (1983). *Early Latin America: A History of Colonial Spanish America and Brazil*. Cambridge: Cambridge University Press.
- Lockyer v. City and County of San Francisco 95 P.3d 459 (Cal. 2004).
- Lugones, M. C. & Spelman, E. V. (1983). Have we got a theory for you! Feminist theory, cultural imperialism and the demand for 'the woman's voice'. *Women's Studies International Forum*, 6, 573-581.
- Loving v. Virginia, 388 U.S. 1. (1967).
- Mansbridge, J. (1996). Using power/fighting power: The polity. In S. Benhabib (Ed.), *Democracy and difference: Contesting the boundaries of the political* (pp. 46-66). Princeton: Princeton University Press.
- Martin, J. N., Krizek, R. L., Nakayama, T. K., & Bradford, L. (1996). Exploring Whiteness. A study of self-labels for white Americans. *Communication Quarterly*, 44, 125-144.
- McCall, L. (2005). The complexity of intersectionality. *Signs: Journal of Women in Culture and Society*, 30, 1771-1800.
- McGee, M. C. (1980). The "ideograph": A link between rhetoric and ideology. *Quarterly Journal of Speech*, 66, 1-16.
- McGee, M. C. (1990). Text, context, and the fragmentation of contemporary culture. *Western Journal of Communication*, 54, 274-289.
- McKerrow, R.E. (1993). Critical rhetoric and the possibility of the subject. In I. Angus & L. Langsdorf (Eds.), *The critical turn: Rhetoric and philosophy*

- in postmodern discourse*. Carbondale, IL: Southern Illinois University Press, 51-67.
- McKerrow, R.E. (1989). Critical rhetoric: Theory and praxis. *Communication Monographs*, 56, 91-111.
- McKerrow, R.E. (1991). Critical rhetoric in a postmodern world. *Quarterly Journal of Speech*, 77, 75-78.
- Mertus, J. (2007). The rejection of human rights framings: The case of LGBT advocacy in the US. *Human Rights Quarterly*, 29, 1036-1064.
- Michael, S. (2008). *Don't ask, Don't tell*. New York: Torquere Press.
- Miller, J. C. (2009). Regulating robocalls: Are automated calls the sound of, or a threat to, democracy? *Michigan Telecommunication Technical Law Review*, 16, 213-253.
- Miller, K. D. (2007). Second Isaiah lands in Washington, DC: Martin Luther King, Jr.'s "I Have a Dream" as biblical narrative and biblical hermeneutic. *Rhetoric Review*, 26, 405-424.
- Moon, D. G. & Flores, L. A. (2000). Anti/colonialism and the abolition of whiteness: Rhetorical strategies of domination among "race traitors." *Communication Studies*, 51, 97-115.
- Moon, D. G. & Nakayama, T. K. (2005). Strategic social identities and judgments: A murder in Appalachia. *Howard Journal of Communications*, 16, 87-107.
- Mouffe, C. (1979). *Gramsci and Marxist theory*. London: Routledge.

- Murphy, J. M. (1995). Critical rhetoric as political discourse. *Argumentation and Advocacy*, 32, 1-15.
- Murray, S. O. (1996). *American gay*. University of Chicago Press.
- Nakayama, T. K & Krizek (1995). Whiteness: a strategic rhetoric. *Quarterly Journal of Speech*, 81, 291-309.
- Nakayama, T. K. & Martin, J. N. (Eds.). (1999). *Whiteness: The communication of social identity*. Thousand Oaks, CA: Sage.
- Nero, C. I. (2001). Why are gay ghettos white? In Johnson E. P. and Henderson M. G. (Eds.) *Black Queer Studies: A critical anthology*. (228-248). Durham: Duke University Press.
- No on 8 (Producer). (2008). *Discrimination*. Retrieved from <http://www.youtube.com/watch?v=Oj-0xMrsyxE>.
- No on 8 (Producer). (2008). *No vs. yes*. Retrieved from <http://www.youtube.com/watch?v=4qa8rDqKz9w>.
- Ono, K. A. & Buescher, D. T. (2001). Deciphering Pocahontas: Unpackaging the commodification of a Native American woman. *Critical Studies in Media Communication*, 18, 23-43.
- Ono, K., & Sloop, J. (1992). Commitment to telos: A sustained critical rhetoric. *Communication Monographs*, 59, 48-60.
- Ono, Kent A. & Sloop, J. (1995). The critique of vernacular discourse. *Communication Monographs*, 62, 19-46.
- Ono, K. & Sloop, J. (1999). Critical rhetorics of controversy. *Western Journal of Communication*, 63, 526-538.

- Pace v. Alabama, 106 U.S. 583. (1883).
- Perez v. Sharp, 32 Cal.2d 711, 198 P.2d 17 (Cal. 1948).
- Perry et. al. v. Schwarzenegger et. al., 704 F. Supp. 2d 921 (N.D. Cal. 2010).
- Pew Research Center. (2010). Gay marriage gains more acceptance: Majority continues to favor gays serving openly in the military. *Pew Research Center for the People & the Press*. Washington, D. C.
- Pinn, A. B. (2002). Black theology then and now: A second generation assessment. *Reviews in Religion & Theology*, 9, 403-409.
- Plessy v. Ferguson, 163 U.S. 537. (1896).
- Puar, J. K. (2007). *Terrorist assemblages: Homonationalism in queer times*. Duke University Press.
- Reagon, B. J. (1983). Coalition Politics: Turning the century. In Smith, B. (Ed.) *Home girls: A Black feminist anthology* (pp. 356-369). New York: Kitchen Table: Woman of Color Press.
- Republicans Against 8 (Producer). (2008). *Backwards*. Retrieved from <http://www.youtube.com/watch?v=LJt1U1HK8Uw>.
- Roberts, F. L. (2007, June 6). There's no place like home: A history of house ball culture. *Wiretap Magazine*. Retrieved from <http://www.wiretapmag.org/arts/43120/>.
- Robinson, A. (1997). The ethics of analogy: Critical discourse on race and sexuality. Stanford Humanities Center: Unpublished lecture.
- Romer v. Evans, 517 U.S. 620. (1996).

- Rowe, A. C. (2008). *Power lines: On the subject of feminist alliances*. Durham: Duke University Press.
- Rufo, K. (2003). Rhetoric and power: Rethinking and relinking. *Argumentation and Advocacy*, 40, 65-84.
- Russell, T. (2008). The color of discipline: Civil rights and black sexuality. *American Quarterly*, 60, 101-128.
- Schiappa, E. (Forthcoming). Defining marriage in California: An analysis of public & technical argument. *Argumentation and Advocacy*.
- Schwarz, A. B. C. (2003). *Gay voices of the Harlem Renaissance*. Indianapolis: University Press.
- Serwer, A. (2009, March 4). The NAACP takes a stance against Prop. 8. *The American Prospect*, Retrieved from http://prospect.org/cs/articles?article=the_naACP_takes_a_stance_against_prop_8.
- Shumway, D. R. (2004). Why same-sex marriage now? *Discourse*, 26, 73-84.
- Simons, H. W. (1970). Requirements, problems, and strategies: A theory of persuasion for social movements. *Quarterly Journal of Speech*, 56, 1-11.
- Sloop, J.M. & Ono, K. (1993). Futuring traditions: Making postmodern judgments. In Raymie McKerrow (Ed.) *Argument and the postmodern challenge: Proceedings of the eighth SCA/AFA conference on argumentation* (pp. 143-148). Annandale, VA: Speech Communication Association.

- Sloop, J. M. & Ono, K.A. (1997). Out-law discourse: The critical politics of material judgment. *Philosophy and Rhetoric*, 30, 50-69.
- Smith, R. R. (2000). Alternative strategies for addressing same-gender marriage as a public issue. *Journal of Homosexuality*, 25, 21-40.
- Smith, R. R., & Windes, R. R. (2007). Civil rights movements and queer identities: Complexities of the collective subject. In C. E. Morris, III (Ed.), *Queering public address: Sexualities in American historical discourse* (pp. 45-73). Columbia, SC: University of South Carolina Press.
- Solomon, M. and McMullen, W. J. (1991). "Places in the heart": The rhetorical force of an open text. *Western Journal of Speech Communication*, 55, 339-353.
- Spivak, G. C. (1988). Can the subaltern speak? In L. Grossberg & C. Nelson (Eds.) *Marxism and the interpretation of culture* (pp. 271-313). Urbana, IL: University of Illinois Press.
- Squires, C., Wats, E. K., Vavrus, M. D., Ono, K. A., Feyh, K., Calfell, B. M., & Brouwer, D. C. (2010). What is the "post" in postracial, postfeminist...(Fill in the blank)? *Journal of Communication Inquiry*, 34, 210-253.
- Sullivan, A. (1997). *Same-sex marriage pro & con reader*. New York: Vintage Books.
- Teal, D. (1971) *The gay militants*. New York: Stein and Day.
- Vaid, Urvashi (1995). *Virtual equality: The mainstreaming of gay & lesbian liberation*. New York: Doubleday Dell Publishing.

- Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009).
- Ward, J. (2008). White normativity: The cultural dimensions of whiteness in diverse LGBT organizations. *Sociological Perspective*, 51, 563-586.
- Warner, M. (1999). *The trouble with normal: Sex, politics, and the ethics of queer life*. Mankato, MN: The Free Press.
- Weinberg, R. (2001). Magic Johnson announces he's HIV-positive. *ESPN online*. Accessed April 3, 2011:
<http://sports.espn.go.com/espn/espn25/story?page=moments/7>.
- Weintraub, D. (2008). Party of one: Arnold Schwarzenegger and the rise of the independent voter. Sausalito, CA: PoliPoint Press.
- Wiggins, M. J. (2001). Foreword: The future of intersectionality and critical race feminism. *Journal of Contemporary Legal Issues*, 677, 677-689.
- Williams, R. (1974). George Orwell: A collection of critical essays. Englewood Cliffs, NJ: Prentice-Hall.
- Wilson, K. H. (2005). Interpreting the discursive field of the Montgomery bus boycott: Martin Luther King Jr.'s Holt Street Address. *Rhetoric & Public Affairs*, 8, 299-326.
- Winant, H. (1997). Behind blue eyes: Contemporary white racial politics. *New Left Review*, 225, 73-89.
- Woo & Chung v. Lockyer, No. CPF-04-504-038 (Cal. Super. Ct. Aug. 5, 2004).
- Woodstock, L. (2001). Skin deep, soul deep: Mass mediating cosmetic surgery in popular magazines, 1968-1998. *Communication Review*, 4, 421-442.

- Young, I. M. (1994). Gender as seriality: Thinking about women as a social collective. *Signs: Journal of Women in Culture and Society*, 19, 729-738.
- Zompetti, J. (1997). Toward a Gramscian critical rhetoric. *Western Journal of Communication*, 61, 66-86.

